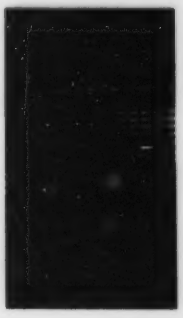
Empowerment Through Community Government Legislation

Report of the Review Committee
on Phase 2 of the Municipal Legislation Review

Western NWT

December 1998

community government



Northwest Territories Municipal and Community Affairs

100-07412/

A MESSAGE FROM THE HONOURABLE MANITOK THOMPSON MINISTER OF MUNICIPAL AND COMMUNITY AFFAIRS

I am pleased to present Empowerment Through Community Legislation - Report of the Review Committee on Phase 2 of the Municipal Legislation Review.

Over the past three years now, the Department of Municipal and Community Affairs and the NWT Association of Municipalities have been working in partnership on the Municipal Legislation Review. The review was undertaken to improve the legislation so that community governments can better serve their residents.

Since the review began, the Legislative Assembly has passed three Bills which brought about much needed changes to legislation. In this report, the Review Committee outlines recommendations and proposals for more major changes to the Acts that would give communities flexible, simple and modern legislation to work with. This is what communities across the North have told us they need.

I would like to congratulate the Review Committee on a job well done, and thank them for their dedication and commitment to this ambitious project. It is my hope that the governments of the two new territories will seriously consider passing new municipal legislation based on this report. I strongly believe the Review Committee's recommendations and proposals can provide a solid foundation for the future of Northern communities and their residents.

Manitok Thompson
Minister

Municipal Legislation Review Committee

November 25, 1998

The Honourable Manitok Thompson
Minister
Municipal and Community Affairs

We are pleased to submit to you our report on Phase 2 of the Municipal Legislation Review, "Empowerment Through Community Government Legislation".

The recommendations and proposals in this report have been developed by the Municipal Legislation Review Committee following consultations and research undertaken over the past two years.

Although the issues and concerns of communities were much the same across the NWT, we have prepared separate Nunavut and Western NWT versions of the report in order to recognize important differences between the two future territories: land claims and self-government negotiations are ongoing in the Western NWT; and there are no charter communities or settlements in Nunavut.

The report includes an explanation of the Committee's work, as well as appendices which set out the Committee's recommendations and proposals in the form of detailed drafting instructions. This format was chosen in order to have the report serve as a basis for further consultation or for the preparation of new legislation, in accordance with the wishes of the two new territorial governments.

Thank you for your support of this important initiative and the partnership between Municipal and Community Affairs and the NWT Association of Municipalities. We have found our work on this project to be a rewarding experience, and we hope our recommendations and proposals will provide a solid foundation for the future of community governments in both new territories.

Respectfully submitted,

George Roach
President
NWT Association of Municipalities
Co-Chair
Municipal Legislation Review

Robert McLeod
Deputy Minister
Municipal and Community Affairs
Co-Chair
Municipal Legislation Review

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empowered

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The Municipal Legislation Review

In 1995, the Minister of Municipal and Community Affairs established the Municipal Legislation Review, a joint project of the Government of the Northwest Territories and the Northwest Territories Association of Municipalities. The main purpose of the Review is to identify the changes to legislation needed to keep up with other developments in community governance.

The Review has focussed on the *Charter Communities Act*, *Cities, Towns and Villages Act*, *Hamlets Act* and *Settlements Act*, which together form the core of municipal legislation. Most communities in the Northwest Territories are organized and operate according to one of these four Acts. Several smaller communities do not have legal status under any of these Acts, but have municipal type programs and services provided through their local Band Councils.

The Review Committee has also made recommendations for some changes to the *Local Authorities Elections Act* and *Property Assessment and Taxation Act*.

Phase 1 of the Review resulted in amendments to fix several specific problems with the Acts. Phase 1 was completed in 1997 when the Legislative Assembly passed the *Municipal Statutes Amending Act No. 1*, the *Municipal Statutes Amending Act No.2* and *An Act to Amend the Property Assessment and Taxation Act*.

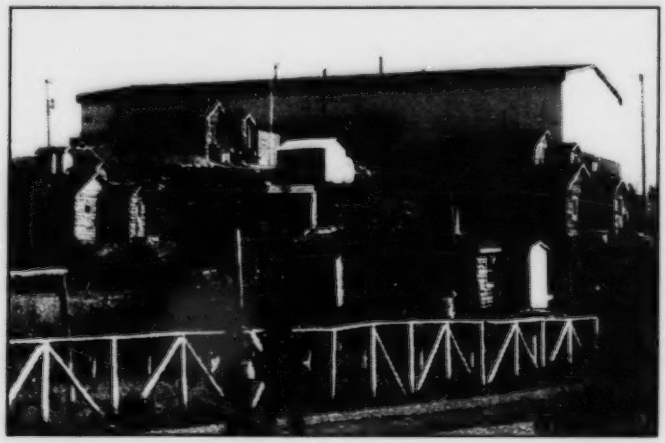
Phase 2 was a broader review of the powers, responsibilities and procedures of under the current Acts. This report sets out the Review Committee's recommendations for the completion of Phase 2 and future work (Phase 3).

Why Change?

The legislation we have now was written at a time when the role of community governments centred around activities and services that mostly had to do with the physical environment of the community, like land use planning, infrastructure, dog control, and garbage disposal. While these activities are still essential, today many community governments are also taking on or want to take on a broader range of issues that are important to their residents, for example, economic development and wellness. The Government of the Northwest Territories wants to encourage this through Community Empowerment because it believes that local people are in a better position to make decisions about their community's overall priorities and the best way to meet their needs.

At the same time, community governments, like everyone else in recent years, have been affected by budget cuts and fewer resources being available.

All of this means that local governments are having to make tougher decisions about a broader range of issues. The legislation has not kept up with the changing roles and responsibilities. Many Northwest Territories councils are finding that outdated legislation is hurting their ability to provide effective, efficient and accountable government to their residents.



The existing legislation only allows municipalities to do things that are specifically authorized. Because lawmakers could not predict all of the issues communities would be dealing with in the future, there are many things councils would like to do and should be able to do, but cannot since there is no specific authorization in the Acts. Municipalities have asked for more flexible legislation that allows them to find and implement the solutions for the problems facing their unique communities. Flexible legislation would give those communities that need it the potential to grow, without forcing other communities to take on more responsibilities they are not ready to handle.

The legislation we have now also contains a number of procedures and requirements for approvals by the Minister or Cabinet. Some of these procedures and approvals are just "red tape" and do not really serve any useful purpose. It is appropriate for new legislation to recognize that communities have more political and administrative experience than when the existing legislation was written. Some procedures and

approval requirements are still needed, but the objective of these provisions can be limited to making sure the territorial Government is in a position to identify and assist communities in difficulty, and to protecting the rights of residents to be involved in their local governments.

Finally, the style of drafting legislation has changed in recent years to make it easier to use and understand. There are a number of changes that could make the legislation more user-friendly.

The issues described above are not unique to the Northwest Territories. Nearly all provinces and the Yukon are rewriting, or have recently completed major rewrites of their municipal legislation.

What is the relationship between new municipal legislation and self-government?

The Review Committee heard concerns from some individuals and groups about the timing and appropriateness of introducing new municipal legislation while Aboriginal self-government negotiations are underway in a number of regions. Once self-government agreements have been concluded, the communities within their jurisdiction may or may not continue to operate under territorial legislation.

Although the Review Committee is respectful of these concerns, it believes that the government should proceed with new municipal legislation as soon as possible for a number of reasons. First, there are some existing communities that will need to use municipal legislation for possibly several more years, particularly in areas where self-government negotiations have not yet begun or are in the early stages. Delaying changes until all self-government agreements have been finalized and implemented would

compromise the ability of these communities in the meantime to grow and provide responsive government to their residents.

Second, the Review Committee believes that in some cases, more flexible municipal legislation now could provide an interim step to help prepare community leaders and residents for the even broader local authorities that may come with self-government agreements. New municipal legislation would allow for more opportunities to build capacity at the local level, which could in turn make future self-government implementation easier.

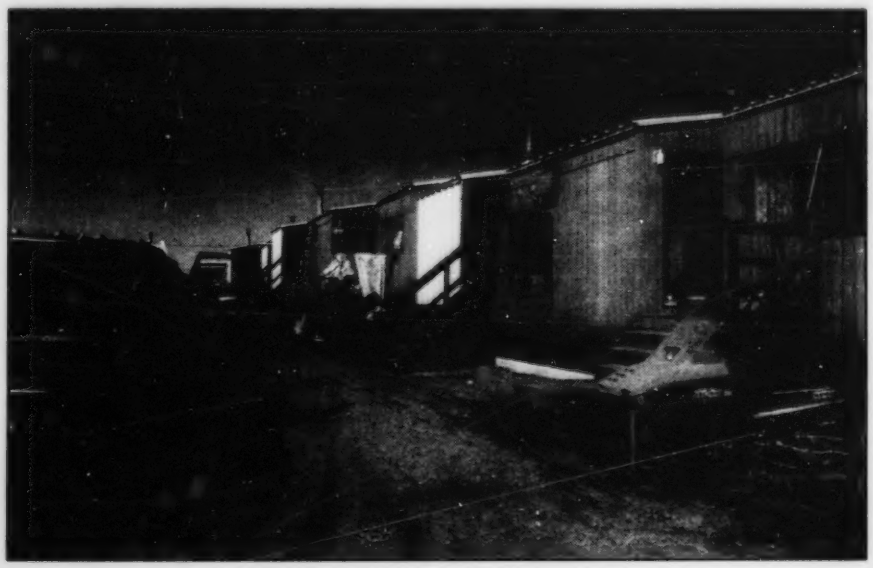
Finally, the Review Committee thinks it is important that, where there is a mutual desire to do so, municipalities should have the ability to work together with other governments, especially Aboriginal governments. The existing legislation limits the extent to which municipalities are permitted to cooperate and interact with other governments and organizations. The Committee's recommendations include changes that would make it easier for municipalities and Aboriginal governments to work together now where they believe this would be to the benefit of residents.

It is the understanding of the Review Committee that self-government agreements will have paramountcy over municipal legislation and that the changes recommended by the Review Committee would not in any way replace or prejudice these agreements. Communities within the jurisdiction of self-government agreements will not use or be affected by municipal legislation unless the parties agree to this.

Purpose of this Report

The purpose of this report is to record and provide to the Government of the Northwest Territories and stakeholders for their consideration the work the Review Committee has completed on Phase 2 of the Municipal Legislation Review.

The recommendations for changes are presented in a legislative format in the Appendices so that interested readers can see the details of what the Committee's recommendations would look like as legislation. The Appendices are not Bills and have not been reviewed by the Department of Justice. They do include enough information on the recommendations so that the Government could use them as drafting instructions for a Bill if they choose to do so. If the Government decides to propose new legislation after considering the Committee's recommendations, a Bill would be drafted and reviewed by the Legislative Assembly following standard procedures.



The Consultation Process

The Review Committee

The Municipal Legislation Review Steering Committee is made up of the Association of Municipalities Executive, and the Deputy Minister and Assistant Deputy Minister, Operations of the Department of Municipal and Community Affairs. The Working Group has included a number of Municipal and Community Affairs staff, representatives from the Ministry of Aboriginal Affairs, and senior administrative officers from both tax-based and non tax-based communities.

The Discussion Paper

A discussion paper, "Empowerment Through Community Government Legislation", was distributed to community governments, First Nations organizations and interested parties in the spring of 1997. The discussion paper set out several proposed themes for legislative reform, and invited people to submit comments or arrange for briefings or meetings by contacting either the Department of Municipal and Community Affairs or the Northwest Territories Association of Municipalities.

Initial Consultations

The discussion paper was generally well-received and stimulated a great deal of feedback throughout 1997.

Consultation facilitators were hired to undertake discussions with municipal, community and Aboriginal representatives. The facilitators established two focus groups, one each for Nunavut and the West, to work through the issues raised in the discussion paper as well as other concerns with the legislation raised during the sessions, and to develop principles to guide new legislation. The focus groups included elected municipal officials, senior administrative officers, and Aboriginal leaders who were also involved in self-government negotiations. In addition to the focus group sessions, the facilitators conducted presentations and discussions at the Northwest Territories Association of Municipalities Annual General meeting, and a number of regional leaders' meetings. The facilitators also engaged in independent discussions and correspondence with several parties. The work of the facilitators is summarized in their final report, "Consultation on Changes to Community Government Legislation", which was completed in the early fall of 1997.

Draft Report

After reviewing the consultation facilitator's report, researching legislation in other Canadian jurisdictions and engaging in further discussions and correspondence with

stakeholders, the Review Committee produced a draft report "Proposed Amendments to Community Government Legislation" in December 1997. The draft report included detailed recommendations for changes to the existing Acts. Spreadsheets summarizing the recommendations in the report and the reasons for them were distributed to community governments and First Nations organizations. The report's recommendations were generally endorsed by the members of the Northwest Territories Association of Municipalities, although concerns with a few specific proposals were raised. Some First Nations representatives raised concerns about the timing and appropriateness of the proposed changes in light of ongoing self-government negotiations.

Recommendations

The recommendations in this report build on the December 1997 draft, and incorporate the research and consultation that has taken place since the draft report was completed.

The Review Committee relied heavily on new municipal legislation and proposals from the provinces and the Yukon as models for turning broad principles such as "flexibility" into detailed provisions.

Summary of Recommendations

Charter Communities Act, Cities, Towns and Villages Act, and *Hamlets Act*

Interpretation	
Problems	*Recommendations for change*
There is no explanation of the purposes of municipal governments to help people interpret the Acts, and in particular, the authorities given to municipal governments under the Acts.	A new provision which clearly sets out the purposes of municipal governments and encourages users to give a broad interpretation to the Acts.
What would stay the same?	
This Part would still include definitions, as needed, for words and terms used in the Acts.	

Part I – Incorporation	
Problems	*Recommendations for change*
There are no criteria for the Minister to use in deciding whether to establish a new municipality.	The Committee recommends the development of a policy or guidelines that would set out the factors the Minister must consider when deciding whether to establish a new municipality. This would ensure that the same criteria are used in all cases.
What would stay the same?	
The rules in the existing legislation for incorporating new municipalities, changing the names, status and boundaries of municipalities, and adopting community charters.	

Part II – Administration	
Problems	*Recommendations for change*
The rules on terms of office do not provide the flexibility in all circumstances for hamlets, cities, towns and villages to choose whether or not to stagger terms and to choose whether to have three year or two year terms. "Staggered" terms means that only part of a council would be replaced at each election because the terms of council members would end at different times.	Amendments to the provisions on terms of office to give hamlets, cities, towns and villages the choice of whether to stagger council members' terms of office, and to make the terms for either 2 or 3 years.
There is not a clear process for forcing a person who is no longer eligible to be a council member to resign if the person refuses to do so.	New provisions to set out a process for going to court to force an ineligible council member to resign.
Councils do not have a specific power to appoint youth members to participate on council. This could provide good opportunities for young people to gain experience in local government, and also for councils to hear a point of view from the residents in their communities who are not old enough to vote.	A new power for councils to appoint youth members.
Councils can only establish boards and other bodies to administer programs and services if there is a community agreement in place. In some cases, it may be appropriate for councils to delegate a specific program or service to a board if the council does not have time to oversee its management.	A new power for councils to establish boards and other bodies to administer programs and services.
There is no specific power for councils to have meetings through speakerphones, videoconferencing or other electronic means. Other jurisdictions allow councils members to participate in meetings this way as long as the other people at the meeting are able to hear them.	A new power for councils to allow council members to participate in meetings through electronic means.

Part II – Administration (continued)	
Problems	*Recommendations for change*
The duties of mayors are very unclear in the current Acts. The duties of councils and councillors are not set out at all. Clear statements of the duties of mayors, councils and councillors would help council members to know their responsibilities, and would give the public an idea of what they should expect from their councils.	Clear statements of the duties of mayors, councils and councillors.
Councils do not have a specific power to adopt codes of ethics. Codes of ethics could increase council members' accountability for their actions to residents and to fellow council members.	A new power for councils to adopt codes of ethics.

What would stay the same?

The rules on:

- the composition and procedures of the council;
- council and committee meetings;
- the oath of office for council members;
- indemnities for council members
- limitation on council members' personal legal liability (this section would be moved to Part VI – Liability, Enforcement and Other Legal Matters)
- requirements for records and minutes of council meetings;
- roles, duties and powers of deputy mayors, acting mayors, the senior administrative officer and other officers of the municipal corporation; and
- council's powers to hire and indemnify employees.

Part III – Corporate Powers	
Problems	*Recommendations for change*
There is no general statement in the existing legislation that describes the corporate status and powers of municipal governments.	A new provision which describes in general terms the corporate status and powers of municipalities.
There is no requirement for councils to get ratepayer or Ministerial approval for long-term leases of real property. In some cases, long-term leases of real property are really a form of long-term borrowing.	A new requirement for councils to use the same procedures as for long-term borrowing by-laws before entering into a long-term lease of real property, unless the lease payments are only for a small amount, or the property will be subleased and will not cost the municipal corporation anything.

Part III – Corporate Powers (continued)	
Problems	*Recommendations for change*
Councils do not have specific powers to promote local economic development.	New powers for councils to promote economic development.
Municipalities can only provide services specifically authorized by legislation or by the Minister.	General powers for municipalities to provide any not-for-profit services. For-profit businesses would require the approval of the Minister.
Municipalities cannot establish, or have shares in corporations. The ability to have an interest in a corporation would in some cases make it easier to set up public/private partnerships.	New powers for municipalities to establish or acquire shares in a corporation with the approval of the Minister.
Municipalities may only enter into community agreements for the administration and delivery of programs and services with the territorial government. Municipalities may benefit from the ability to enter into community agreements with other community governments, First Nations organizations, or the Government of Canada.	New powers for municipalities to enter into community agreements with other community governments, First Nations organizations, and the Government of Canada. The powers would include an ability to establish joint boards.
The Acts do not require community agreements to include provisions for settling disputes.	A new requirement for community agreements to include provisions for settling disputes.
The Acts do not specifically provide for public/private partnerships. Some exceptions to restrictions on corporate powers such as borrowing might be needed to have successful partnerships.	New powers to enter into public/private partnership agreements.
What would stay the same?	
• The municipal corporation's general powers to enter into contracts. • The requirement for every municipal corporation to have a seal. • The existing rules about municipal property.	

Part IV – Financial Affairs	
Problems	*Recommendations for change*
There is no requirement for municipalities to allow public access to documents such as budgets, financial statements and auditors' reports.	New requirements for members of the public to have access to budgets, financial statements and auditors' reports.
Forgiveness of debt by-laws require the approval of the Minister. It would be more appropriate for the accountability for these by-laws to be to the public.	Amendment to change the requirement for forgiveness of debt by-laws to be approved by the Minister to a requirement to give public notice of the by-laws before they receive third reading.
The process for approving long-term borrowing involves a lot of "red tape". Some of the requirements are no longer necessary for tax-based municipalities.	• Removal of the requirement for the Minister to approve long-term borrowing by tax-based municipalities. • A power for the Minister to make regulations providing that borrowing below a certain percentage of revenues does not require ratepayer approval. • Amendment to the process for exempting by-laws from the ratepayer approval requirement so that the Minister instead of Cabinet approves the exemption.
The maximum borrowing amounts are unrealistically high for tax-based municipalities. There are no maximums for non tax-based municipalities.	A power for the Minister to prescribe by regulation maximum debt limits for all municipalities. The maximums would be tied to revenues.
Municipalities are prohibited from making loans or guarantees. In some limited circumstances, these powers would be appropriate.	New powers for municipal corporations to make loans and guarantees in certain circumstances.
Non tax-based municipalities may only borrow for land development purposes.	Expanded borrowing powers for non tax-based municipalities.
The powers for municipal corporations to invest surplus funds are limited and refer to legislation that does not exist anymore. If municipalities had the ability to pool their investments, they might be able to get higher returns on their surplus money.	Expanded investment powers to allow for municipalities to pool their investments.

Part IV – Financial Affairs (continued)	
Problems	*Recommendations for change*
Clearer requirements for financial statements are needed.	Adoption of the Canadian Institute of Chartered Accountants guidelines for financial statements.

What would stay the same?

- The rules for the preparation, approval and administration of budgets.
- The process for preparing financial statements.
- The rules for the appointment of auditors, and their responsibilities.
- The procedures for approval of long-term borrowing by non tax-based municipalities.
- The contents of long-term borrowing by-laws.
- The rules for local improvements.
- The circumstances in which councils may forgive debts and make grants.

Part V – By-Laws	
Problems	*Recommendations for change*
Municipalities are only authorized to make by-laws on matters specifically authorized in the Acts. Because of their specific wording, by-law powers are interpreted very narrowly. If a municipal government needs powers to regulate in an area that was not foreseen when the legislation was drafted, an amendment is required. Some of the current areas of by-law jurisdiction are: roads, sewage and drainage systems, garbage and waste, water distribution systems, parking lots, trailer parks, airports, fire prevention, ambulance services, public health, recreation, animals, adult publications, firearms and fireworks, and inoperable vehicles.	• A "spheres of jurisdiction" approach to describing by-law powers. This means that by-law jurisdiction would be very broad. An example of a sphere of jurisdiction would be "the safety, health and welfare of people and the protection of people and property". In a few cases, specific by-law making powers would still be necessary (e.g. roads). • A new provision that by-law making powers should be interpreted broadly to allow councils to govern effectively.
The procedures for voter petitions for by-laws are not very well described. Other jurisdictions have clearer procedures so that everyone can know their rights and obligations.	New procedures for voter petitions outlining the requirements for a valid petition, the process to be followed once a petition has been submitted, and limits on the types of matters that can be the subject of a petition.

Part V – By-Laws (continued)
What would stay the same?
• The limits on when by-laws can apply outside of the municipality. • The provision that by-law powers are subject to federal and territorial legislation. • Procedures for making by-laws and getting approvals for by-laws. • Procedures for quashing by-laws and resolutions. • The provisions on roads, utility franchises and airports. • Some of the provisions on water distribution, sewage and drainage systems. • The limitations on council's powers in the interval between election day and the beginning of the new council's terms of office. • The prohibition on exempting a specific person from the application of a by-law or any charges, taxes, etc. payable to the municipal corporation. • The Minister's power to disallow for any reason any by-law within a year.

Part VI – Liability, Enforcement and Other Legal Matters	
Problems	*Recommendations for Change*
Only council members are protected from personal liability. Employees, officers, volunteer workers and board members have no protections.	Expansion of the current civil liability protections for council members to include employees, officers, volunteer workers and board members.
Municipalities have few protections from legal liability under the current Acts compared with the legislation in other parts of Canada. Municipal corporations are not like other corporations. Damage awards against municipalities are paid out of public funds. Municipalities also have public responsibilities, like the maintenance of municipal roads and facilities, by-law enforcement, and fire protection services, that leave them more vulnerable to lawsuits than private individuals and corporations. The unique roles and responsibilities of municipal governments justify some special liability protections, although these have to be balanced with the need for fair treatment of individuals who suffer damages.	New provisions limiting municipal liability for certain matters and activities, such as municipal facilities, services and utilities, fire protection, roads, exercising discretion, inspections and maintenance, and remedying contraventions of by-laws.

Part VI – Liability, Enforcement and Other Legal Matters (continued)	
Problems	*Recommendations for Change*
Like the current by-law making powers, the current powers to enforce by-laws are very narrowly defined. Enforcement powers need to be more general, consistent with the "spheres of jurisdiction" approach to describing by-law powers.	• A new provision giving municipalities a general authority to conduct inspections and remedy contraventions, and setting out the procedures to be followed. • Restricting appeals from decisions of council on enforcement matters to cases where the required procedures have not been followed, or where the decision is patently unreasonable.
Annual municipal inspections are automatic, and do not specifically involve operational matters. The requirement to have annual inspections of every municipality stretches the Department's resources and limits its ability to do thorough inspections where needed. Expanding the scope of inspections to include operational matters might allow problems to be discovered and fixed in the early stages.	Replacement of the requirement for annual municipal inspections with a requirement that inspections take place where requested by the Minister or by the council. Expansion of the scope of municipal inspections to include operational matters.
There is no formal interim step between the discovery of major problems and the dissolution of council and appointment of an administrator by the Minister.	• New provisions for the appointment of "municipal supervisors" without dissolving the council, where a municipality is in difficulty. • Guidelines or a policy to set out the criteria to be considered by the Minister in deciding whether to appoint a municipal administrator.
There is no provision for the GNWT to recover the costs of appointing an administrator from a municipal corporation in cases where this would be appropriate.	A new provision to allow the GNWT to recover the costs of municipal administrators.

What would stay the same?

- The rules for appointing by-law officers.
- The requirement to give notice of by-laws authorizing the entry or use of property without consent.
- The ability of the municipal corporation to use the *Summary Convictions Procedures Act* and apply to the Supreme Court for injunctions to enforce its by-laws.
- The provisions on offences.
- The provisions on municipal inspections, other than the changes stated above.
- The provisions on municipal administrators, other than the changes stated above.

Part VII - Dissolution	
Problems	*Recommendations for Change*
None	None
Part VIII - Regulations	
Problems	*Recommendations for Change*
None	None
This Part would include the Minister's powers to make regulations and orders varying the time for doing things.	

Settlements Act

Interpretation	
Problems	*Recommendations for change*
There is no explanation of the purposes of settlement governments to help people interpret the Acts, and in particular, the authorities given to settlement governments under the Acts.	A new provision which clearly sets out the purposes of settlement governments and encourages users to give a broad interpretation to the Acts.
What would stay the same?	
This Part would still include definitions, as needed, for words and terms used in the Acts.	

Part I – Settlements	
Problems	*Recommendations for change*
Only one person is needed to make a request for the establishment of a new settlement.	Require twenty-five people for a request for the establishment of a new settlement, as is required for a new municipality.
There are no criteria for the Minister to use in deciding whether to establish a new settlement.	A policy or guidelines that would set out the factors the Minister must consider when deciding whether to establish a new settlement. This would ensure that the same criteria are used in all cases.
What would stay the same?	
The rules in the existing legislation changing the names, status and boundaries of settlements.	

Part II – Settlement Corporations	
Problems	*Recommendations for change*
Councils do not have specific powers to promote local economic development.	New powers for councils to promote economic development.
Settlements may only enter into community agreements for the administration and delivery of programs and services with the GNWT. Settlements may benefit from the ability to enter into community agreements with other community governments, First Nations organizations, or the Government of Canada.	New powers for settlements to enter into community agreements with other community governments, First Nations organizations, and the Government of Canada. The powers would include an ability to establish joint boards.

Part II – Settlement Corporations (continued)	
Problems	*Recommendations for change*
The Acts do not require community agreements to include provisions for settling disputes.	A new requirement for community agreements to include provisions for settling disputes.
What would stay the same?	
The process for incorporating settlements. The provisions on contracts, property and limitations.	
Part III - Administration	
Problems	*Recommendations for change*
There is not a clear process for forcing a person who is no longer eligible to be a council member to resign if the person refuses to do so.	New provisions to set out a process for going to court to force an ineligible council member to resign.
Councils do not have a specific power to appoint youth members to participate on council. This could provide good opportunities for young people to gain experience in local government, and also for councils to hear a point of view from the residents in their communities who are not old enough to vote.	New powers for councils to appoint youth members.
There is no specific power for councils to have meetings through speakerphones, videoconferencing or other electronic means. Other jurisdictions allow councils members to participate in meetings this way as long as the other people at the meeting can hear them.	A new power for council to allow council members to participate in meetings through electronic means.
The duties of chairpersons are very unclear in the current Acts. The duties of councils and councillors are not set out at all. Clear statements of the duties of chairpersons, councils and councillors would help council members to know their responsibilities, and would give the public an idea of what they should expect.	Clear statements of the duties of chairpersons, councils and councillors
Councils do not have a specific power to adopt codes of ethics. Codes of ethics could increase council members' accountability for their actions to residents and to fellow council members.	A new power for councils to adopt codes of ethics.

Part III – Administration (continued)

What would stay the same?

The rules on:

- the composition, terms of office and procedures of the council;
- council and committee meetings;
- the oath of office for council members;
- indemnities for council members;
- requirements for records and minutes of council meetings;
- roles, duties and powers of deputy chairpersons, acting chairpersons, the senior administrative officer and other officers of the settlement corporation;
- the requirement for every settlement corporation to have a seal; and
- council's powers to hire and indemnify employees.

Part IV – Financial Affairs

Problems	*Recommendations for change*
There is no requirement for settlements to allow public access to documents such as budgets, financial statements and auditors' reports.	New requirements for members of the public to have access to budgets, financial statements and auditors' reports.
Clearer requirements for financial statements are needed.	Adoption of the Canadian Institute of Chartered Accountants guidelines for financial statements.

What would stay the same?

- The rules for the preparation, approval and administration of budgets.
- The process for preparing financial statements.
- The rules for the appointment of auditors, and their responsibilities.
- The circumstances in which councils may write off or forgive debts and write off assets.
- The settlement corporation's power to establish charges for services it provides.

Part V – Liability and other Legal Matters

Problems	*Recommendations for change*
Only council members are protected from personal liability. Employees, officers, volunteer workers and committee members have no protections.	Expansion of the current civil liability protections for council members to include employees, officers, volunteer workers and committee members.

Part V – Liability and other Legal Matters (continued)	
Problems	*Recommendations for change*
Settlements have few protections from legal liability under the current Acts compared with the legislation in other parts of Canada. Settlement corporations are not like other corporations. Damage awards against settlements are paid out of public funds. Settlements also have public responsibilities that leave them more vulnerable to lawsuits than private individuals and corporations. The unique roles and responsibilities of settlement governments justify some special liability protections, although these have to be balanced with the need for fair treatment of individuals who suffer damages.	New provisions limiting settlement liability for exercising discretion.
Annual settlement inspections are automatic, and do not specifically involve operational matters. The requirement to have annual inspections of every settlement and municipality stretches the Department's resources and limits its ability to do thorough inspections where needed. Expanding the scope of inspections to include operational matters might allow problems to be discovered and fixed in the early stages.	Replacement of the requirement for annual settlement inspections with a requirement that inspections take place where requested by the Minister or by the council. Expansion of the scope of settlement inspections to include operational matters.
There is no formal interim step between the discovery of major problems and the dissolution of council and appointment of an administrator by the Minister.	• New provisions for the appointment of "settlement supervisors" without dissolving the council, where a settlement is in difficulty. • Guidelines or a policy to set out the criteria to be considered by the Minister in deciding whether to appoint a settlement administrator.
There is no provision for the GNWT to recover the costs of appointing an administrator from a settlement corporation in cases where this would be appropriate.	A new provision to allow the GNWT to recover the costs of settlement administrators.

Part V – Liability and other Legal Matters (continued)	
What would stay the same?	
• The provisions on offences and punishment. • The provisions on settlement inspections, other than the changes stated above. • The provisions on settlement administrators, other than the changes stated above.	
Part VI - Dissolution	
Problems	*Recommendations for Change*
None	None
Part VII - Regulations	
Problems	*Recommendations for Change*
None	None
This Part would include the Minister's powers to make regulations and orders varying the time for doing things.	

Local Authorities Elections Act, and *Property Assessment and Taxation Act*

Local Authorities Elections Act	
Problems	*Recommendations for change*
There is no requirement in the Act for candidates in municipal and settlement elections to report campaign contributions and expenses.	New provisions allowing councils to require candidates to prepare and make public statements of their campaign contributions and expenses.
Property Assessment and Taxation Act	
Problems	*Recommendations for Change*
There are no time limits for the hearing of complaints by the Boards of Revision or the Assessment Appeals Tribunal. This has resulted in backlogs.	New time limits for the hearing of complaints.
Once a complaint has been filed, the Director of Assessment does not have the power to change the roll. In many cases, the parties come to an agreement before a Board or Tribunal hearing, but the hearing must go ahead anyway before the roll can be changed.	A new power for the Director to change the roll after a complaint has been filed if the parties come to an agreement on their own before their hearing.
The Boards and Tribunal often do not receive enough information about the reasons for a complaint before the hearing. This results in delays.	A new power for Boards and the Tribunal to establish policies about the information required for a complaint to be considered.
Boards of Revision have raised concerns that their decisions are not taken seriously. People often file complaints, but do not bother to make representations or attend hearings because they intend to appeal to the Tribunal anyway.	A new requirement that a complainant must appear at a Board hearing and give the Board information it requests before the complainant can file an appeal. This would not apply if the complainant has a good reason for not attending the hearing or providing requested information.
The Secretary to the Tribunal must be a member of the public service, and is appointed by the Minister. There are not always qualified members of the public service available to take on this role in addition to their other responsibilities. The Secretary could be appointed by the Tribunal itself rather than by the Minister.	Remove the requirement for the Secretary to the Tribunal to be a member of the public service appointed by the Minister

Further Comments on Specific Issues

Natural Persons Powers

During the consultations, many people spoke about "natural persons powers" as a possible answer to some of the difficulties municipalities face under the current legislation.

With natural persons powers, it would be assumed that municipalities have the same legal powers as ordinary people, unless the legislation specifically limited those powers. In theory, natural persons powers would give municipalities the authority to do things like enter into contracts, own, mortgage or lease property, invest money, borrow money and charge fees for services without being specifically authorized to do so in legislation. Natural persons powers would not have any effect on by-law making jurisdiction or the ability to tax, since these are things that ordinary people cannot do. Alberta is the only province that has adopted natural persons powers to date, but the Yukon and a few other provinces are considering doing so.

In practice, the Alberta municipal legislation puts a number of limitations on natural persons powers. In Alberta, the powers to borrow, make investments, make loans and guarantees and operate for-profit businesses are all completely regulated. There are also some restrictions on how municipalities deal with property.

An alternative to natural persons powers is to expand the list and scope of the corporate powers that are specifically authorized under the Acts. This was the approach that Manitoba took in its recent reform of municipal legislation. Given the restrictions in Alberta, it is questionable whether natural persons powers provide an advantage over the approach used in Manitoba.

For example, one reason that is often given for adopting natural persons powers is that municipalities are presumed to have a power unless it is specifically restricted in legislation, so that legislation does not have to be amended every time there is a need to expand the current powers. However, legislative change is also needed to remove restrictions on natural persons powers. If, as in Alberta, the restrictions affect several key corporate functions, amendments will still be required in many cases to broaden powers. Further, some people think that it is appropriate for every expansion of municipal corporate powers to be considered carefully, because municipalities are not the same as business corporations: municipalities have a duty to act in the public interest, and are financed with public money.

Finally, concerns have been raised that natural persons powers would create uncertainty about the scope of municipal authority and could increase municipal liability exposure. The Alberta legislation has not been tested enough to give people an idea of the limits of natural persons powers. The uncertainties might require municipal governments to use expensive legal resources, particularly in the first few years of the new legislation, as they explore the scope of their jurisdiction.

The Review Committee is concerned that natural persons powers could create new, unforeseen problems with the legislation. The Committee believes that the problems in the current legislation can be addressed by expanding the current corporate powers, as was done in Manitoba.

Ratepayer Approvals

The Review Committee looked at the possibility of changing the requirements for ratepayer approvals in municipal taxing authorities to requirements for voter approvals, or to requirements to advertise by-laws. All of these options are found in various other Canadian jurisdictions. The feedback received from the municipalities was that the current ratepayer approvals are satisfactory and should not be changed. The central argument for keeping ratepayer approvals for borrowing was that ratepayers are the people most directly affected by municipal finances. Although voters who are not ratepayers still pay property taxes indirectly when they rent accommodations, or buy goods and services from local businesses, it was argued that as property owners, ratepayers have a larger investment in the community. If taxes were to increase because the municipality was in financial difficulty, ratepayers would be liable to pay those taxes unless they could sell their property. The Committee therefore did not recommend any changes to the status quo.

Employment of Council Members by the Municipal Corporation

Some municipalities requested exceptions to the rule that employees of the municipal corporation cannot serve on council. In small communities, this rule can severely limit the number of suitable candidates available to run for office. Although the Committee acknowledges the difficulty faced by small communities, it felt that the possibility of conflict of interest was too strong to allow exceptions to the current rule, and therefore did not recommend any changes.

Municipal Businesses

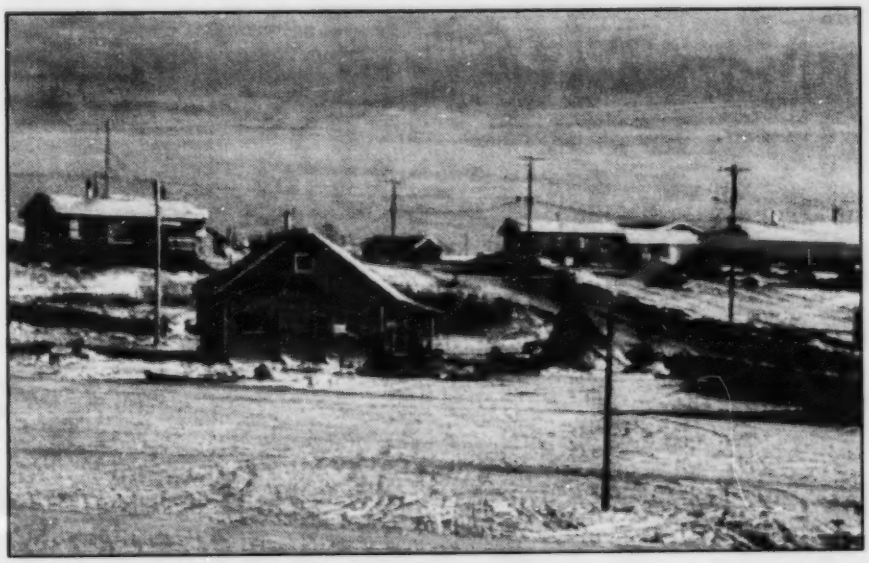
The Committee heard a number of concerns about its proposal to increase municipal powers to carry on businesses. The main concern was that the municipalities would be inappropriately competing with the private sector and in some cases with First Nations and land claims organizations. Other people support increased powers for municipalities

to operate businesses because it is a way for non tax-based municipalities in particular to generate revenues. Also, in some communities, services are not available from the private sector, or could be provided more cheaply by the municipality.

The Committee included new provisions for municipal businesses in its draft so that the Government and stakeholders would be able to see exactly what the legislation could look like. However, the Committee recommends that these proposals receive especially careful consideration before being put into a Bill.

Long Term Borrowing by Non Tax-Based Municipalities

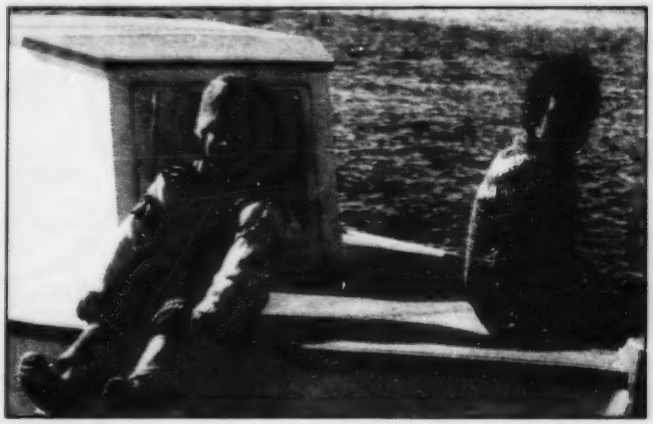
Some non tax-based municipalities have expressed a need for more long-term borrowing powers to allow them to successfully take on and manage transfers of infrastructure and programs, and to respond to local needs and priorities. In the past, non tax-based communities have been restricted from borrowing on a long-term basis because they do not raise property tax revenues, and would be dependent on the GNWT if they were not able to meet their debt obligations. Concerns have been raised about the ability of non tax-based municipalities to manage long-term debt given their limited sources of revenue. To balance the needs of non tax-based municipalities with the concerns that have been brought forward, the Review Committee recommends regulations which would set maximum debt limits for municipalities, and which would list the specific circumstances which a municipality would be able to borrow on a long-term basis (i.e. where the municipality is able to identify a revenue stream which will pay for the loan). The regulations could be made less restrictive as municipalities generate more own-source revenues.



Future Work

The Review Committee had lengthy discussions on some issues which it did not feel it could address in this phase of the legislation review. The Committee proposes a Phase 3 to the legislation review to continue consideration of these issues. The outstanding issues are:

- Whether and how to create a single, seamless *Community Government Act* to replace the existing Acts, and if so, whether the new Act would include a preamble to clarify the intent behind new legislation with respect to community empowerment, and/or the relationship between community government legislation and Aboriginal self-government agreements.
- Whether and how to expand the scope of community charters and/or add new provisions for community constitutions to allow residents to establish guiding principles for their community governments and to create their own governance structures. At this time, the contents of community charters are limited to:
    - certain election matters
    - certain matters respecting the council;
    - limitations on the community's by-law making powers; and
    - defining the relationship between the council and local Aboriginal organizations or governments.



- The process for getting approval for community charters and/or community constitutions from residents and from the territorial government.
- Whether to retain the existing types of communities (cities, towns, villages, hamlets, settlements, charter communities), and if so, whether to change the criteria and process for a community to change its status.
- Whether to provide settlements with powers to own real property and to make by-laws. This issue is linked to the concept of "seamless legislation", as giving settlements these powers at this time would effectively make them hamlets.
- Whether broader access to information provisions are needed.
- Changes that would be needed to implement recommendations from the Municipal Finance Review. In particular, a major reform of property taxation in the General Taxation Area as is currently under consideration would require substantial amendments to the *Property Assessment and Taxation Act.*

EXPLANATORY NOTES – APPENDICES 'A' and 'B'

- ***Appendices 'A' and 'B' are not Bills**. They have not been approved by the Government of the Northwest Territories or reviewed by the Department of Justice. They are in legislative format so that interested people can see the details of the Committee's recommendations. These details could be used as drafting instructions if the Government decides to implement the recommendations.*

- *The numbering method used is for convenience only and it is not proposed that this would be used for a Bill. It is also expected that a Bill would include transitional, consequential and housekeeping amendments.*

- *Where no changes are proposed for large parts of the existing Acts, these parts have not been reproduced. In some cases, a number of sections which the Committee recommends stay the same as in the existing Acts have been included to make it easier to see how the new and old provisions would work together.*

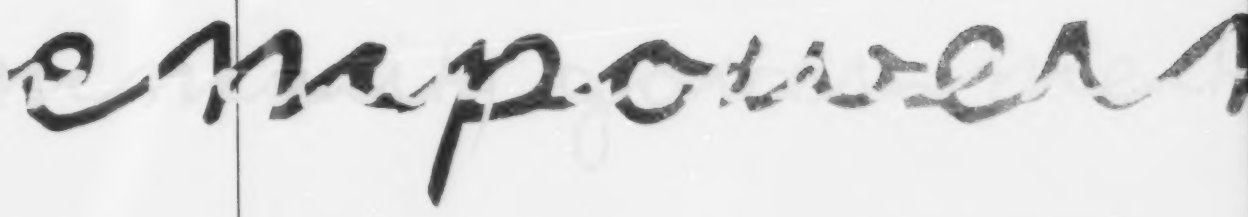
- *In Appendix 'A', "Existing Acts" means the current Charter Communities Act, Cities, Towns and Villages Act, and Hamlets Act. In Appendix 'B', "Existing Act" means the current Settlements Act.*

- *[SAME] next to a provision means that it is in substance the same as a provision in the existing Acts. [AMENDED] means that the provision is in the existing Acts, but that it has been changed in some way. [NEW] refers to a new provision that is not in the existing Acts.*

- *In sections marked [AMENDED], underlined wording is new, and wording which is struck through is wording which has been removed from the existing provision. Unsubstantive changes (e.g. changes to numbering) are not marked.*

Appendix

A



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INTERPRETATION

To help people interpret the Act, the Committee recommends a new section to explain the purposes of municipal governments. This part would also include, as needed, definitions of words used in the Act.

0.1 **Purposes of municipal government** [NEW]
The purposes of municipal governments are

a) to provide good government
b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and
c) to develop safe and viable municipalities.

0.2 **Definitions** [AMENDED*]
* Only those definitions which are helpful for understanding this report have been included in this section. There are a number of other definitions in the existing legislation, and it is expected that a Bill would include some of these definitions as well as some new definitions not listed here.

In this Act,
"First Nation government or organization" means a band council, Metis local, tribal council, entity established or recognized under a land claims agreement or self government agreement within the Northwest Territories, or any other entity in the Northwest Territories which exists primarily to govern or represent Aboriginal people
"local improvement" means a work that, in the opinion of a council, mostly benefits property in a particular area of the community
"long term debt security" means a debenture, mortgage, bond, term loan, unsecured note series or other long-term financing arrangement
"municipal corporation" means a corporation established or continued under this Act as a city, town, village, hamlet or charter community, but does not include a settlement or settlement corporation
"ratepayer" means a person who must pay property taxes to a municipal corporation

0.3 **Public notice** [SAME]
When public notice is required under this Act, the notice must be given to the general public in one or more of the following ways:

a) by inserting the notice at least once in a newspaper circulating in the municipality;
b) by mailing or delivering a copy of the notice to each voter in the municipality;
c) by causing announcements to be made on a radio or television station received in the municipality on at least three separate days;
d) by posting a notice in at least five widely separated and conspicuous places in the municipality.

0.4 **Aboriginal rights** [SAME; *Charter Communities only*]
Nothing in this Act shall be interpreted so as to affect Aboriginal rights.

PART I

INCORPORATION

The Committee recommends that the processes for incorporating new municipalities, changing the names, status and boundaries of municipalities, and adopting community charters stay the same as under the existing Acts.

However, the Committee also recommends the development of a policy or guidelines that would set out the factors the Minister must consider when deciding whether to establish a new municipality. This would ensure that the same criteria are used to evaluate all requests for new municipalities.

[Please refer to Part I of the existing *Charter Communities Act*, *Cities, Towns and Villages Act*, and *Hamlets Act* for details.]

PART II

ADMINISTRATION

The Committee recommends a number of changes to make this Part easier to use and understand and to make the rules more flexible where appropriate. The changes would:

- ***provide hamlets, cities, towns and villages with greater flexibility to stagger or change terms of office [charter communities already have flexibility in setting terms of office through their community charters];***
- ***set out the process to be followed when it is necessary to force a disqualified council member to step down;***
- ***give councils explicit powers to appoint youth members;***
- ***allow councils to establish boards or other bodies to administer programs and services;***
- ***allow council meetings to take place through speakerphones, videoconferencing or other electronic means; and***
- ***give a clear description of the duties of mayors, councils and councillors, and give councils explicit powers to adopt codes of ethics.***

1. COUNCILS

N.B. *1. Sections 2.1.4 and 2.1.10 do not apply to Charter Communities.*

2.1.1 **Composition of council** [SAME - *Charter Communities only*]
The composition of the council of a charter community and the terms of office for council members are as set out in the community charter.

2.1.2 **Role of council** [SAME]
Except as otherwise provided by this Act, the powers and duties of a municipal corporation shall be exercised and performed by the council.

2.1.3 **Exercise of powers and duties** [SAME]
(1) Every council shall exercise its powers and perform its duties by resolution or by by-law.
(2) Where this Act or any other enactment requires it, a council shall exercise its powers and perform its duties only by by-law.

2.1.4 **Elected council members** [SAME]
(Hamlets)
(1) Subject to section 2.1.5, every municipal corporation has a council composed of council members elected in accordance with the *Local Authorities Elections Act*.
(2) The ~~*Local Authorities Elections Act*~~ applies ~~to all matters~~ respecting the election of members of a council.

(Cities, Towns and Villages)
(1) Every municipal corporation has a council composed of council members elected in accordance with the *Local Authorities Elections Act*.
(2) The *Local Authorities Elections Act* applies to all matters respecting the election of members of a council.

2.1.5 **Appointed council members** [SAME -*Hamlets only*]
(1) The Minister may appoint persons, either by their name or office, to be council members in addtion to those council members elected in accordance with the *Local Authorities Elections Act*.
(2) The number of council members appointed under subsection (1) must not exceed 1/3 of the total number of council members who comprise the council.
(3) The persons appointed under subsection (1) must be eligible to be candidates.
(4) The term of a council member appointed under subsection (1)
a) where the person is appointed by office, is for the duration of the other term of office of that person; and
b) where the person is appointed by name, must not exceed two years.
(5) A council member who is appointed under subsection (1) shall be deemed to be duly elected.

2.1.6 **Composition of council/Variation of number of council members** [SAME]
(Hamlets)
(1) Subject to this section, the council of a municipal corporation is composed of a mayor and eight elected councillors.
(2) The Minister may, by order, vary the number of elected council members who comprise a council, if the council requests the variation.
(3) An order made under subsection (2)
a) shall not affect the term of office of any council member in office at the time the order is made; and
b) shall apply to the next general election in respect of elected council members.

(Cities, Towns and Villages)
(1) Subject to this section, the council of a municipal corporation is composed of a mayor and eight councillors.
(2) For the purposes of a city, the council may call councillors "aldermen".
(3) The Minister may, by order, vary the number of council members who comprise a council, if the council requests the variation.
(4) An order made under subsection (3)
a) shall not affect the term of office of any council member in office at the time the order is made; and
b) shall apply to the next general election in respect of elected council members.

(Charter Communities)
An order varying the number of council members as set out in the community charter
a) shall not affect the term of office of any council member in office at the time the order is made;
b) shall apply to the next general election in respect of elected council members; and
c) may apply before the next general election in respect of non-elected council members.

2.1.7 **Youth members** [NEW]

(1) A council may appoint a person with the title "youth member", to sit with the council and to participate in its deliberations, for a term and on conditions that the council may decide.

(2) A youth member must be less than 18 years of age.

(3) A youth member is not counted for the purpose of determining a quorum or deciding a vote of the council.

2.1.8 **Change in titles** [SAME -*Charter Communities only*]

A council may call the mayor, deputy mayor and councillors by other names for the purposes of the municipal corporation.

2.1.9 **Terms of office**

(*Hamlets*) – [AMENDED]

(1) Subject to this Act, the council members hold office for two years.

(2) The term for council members

a) commences at 12 noon on the first Monday in January following their election or when they are sworn in, whichever is later; and

b) ends at 12 noon on the first Monday in January.

~~(3) The councillors elected at the first or at a subsequent election of the council shall hold office as follows:~~

~~a) the four candidates receiving the highest, second highest, third highest and fourth highest number of votes hold office for a term of two years;~~

~~b) the balance of the successful candidates hold officer for a term of one year.~~

The council may, by by-law, provide that those councillors who are elected at the general election following the making of the by-law and who receive less votes than the councillor receiving the fourth highest number of votes shall hold office for a term of one year.

(4) A by-law made under this subsection (3) must be made at least 270 days before the date of the next general election.

(5) A by-law made under subsection (3) cannot be repealed until after four general elections have occurred since it was made, unless repealed sooner with the prior approval of the Minister.

(6) The council may, when repealing a by-law that staggered the terms of office of the councillors in the manner proved for in subsection (3), provide that the terms of office of all council members expire at the general election following the repeal of the by-law.

(*Cities, Towns and Villages*) – [AMENDED]

(1) Subject to this Act, the council members hold office for three years.

(2) The term

a) commences at 12 noon on the first Monday of November following their election or when they are sworn in, whichever is later; and

b) ends at 12 noon on the first Monday of November.

(3) The council may, by by-law, provide that those councillors who are elected at the general election following the making of the by-law and who receive less votes than the councillor receiving the fourth highest number of votes shall hold office for a term of two years.

(4) A by-law made under this subsection (3) must be made at least 270 days before the date of the next general election.

(5) A by-law made under subsection (3) cannot be repealed until after four general elections have occurred since it was made, unless repealed sooner with the prior approval of the Minister.
(6) The council may, when repealing a by-law that staggered the terms of office of the councillors in the manner proved for in subsection (3), provide that the terms of office of all council members expire at the general election following the repeal of the by-law.

(*Charter Communities*) – [SAME]
Where a charter community is declared to be a municipal taxing authority, the term of office for council members shall end at 12 noon on the first Monday in November in the year in which the term would otherwise end.

2.1.10 **Variation/staggering of terms of office**
(*Hamlets*) – [NEW]
(1) Subject to subsection (1.1), the council may, by by-law, increase the term of office of members of the council to three years.
(1.1) A by-law made under subsection (1) may also provide that those councillors who are elected at the general election following the making of the by-law and who receive less votes than the councillor receiving the fourth highest number of votes shall hold office for a term of two years.
(2) A by-law made under this section applies to the general election following the making of the by-law, if it is made at least 270 days before the date of that general election.
(3) A by-law made under this section cannot be repealed until after four general elections have occurred since it was made, unless repealed sooner with the prior approval of the Minister.
(4) The council may, when repealing a by-law that staggered the terms of office of the councillors in the manner proved for in subsection (1.1), provide that the terms of office of all council members expire at the general election following the repeal of the by-law.

(*Cities, Towns and Villages*) [SAME]
(1) Subject to subsection (1.1), the council may, by by-law, reduce the term of office of members of the council to two years.
(1.1) A by-law made under subsection (1) may also provide that those councillors who are elected at the general election following the making of the by-law and who receive less votes than the councillor receiving the fourth highest number of votes shall hold office for a term of one year.
(2) A by-law made under this section applies to the general election following the making of the by-law, if it is made at least 270 days before the date of that general election.
(3) A by-law made under this section cannot be repealed until after four general elections have occurred since it was made, unless repealed sooner with the prior approval of the Minister.
(4) The council may, when repealing a by-law that staggered the terms of office of the councillors in the manner proved for in subsection (1.1), provide that the terms of office of all council members expire at the general election following the repeal of the by-law.

2.1.11 **Oath of office** [SAME]
Every council member shall, before taking office, take an oath or an affirmation as follows:

> I, ... do solemnly and sincerely promise and (swear *or* affirm) that I will duly, faithfully and to the best of my skill and knowledge, execute the powers and trust reposed in me as a (*name of office*).

2.1.12 **Ineligible council members** [AMENDED]

(1) A council member who, after his or her election or appointment, would not be eligible to be a candidate shall immediately vacate his or her seat and cease to be a mayor or councillor, as the case may be.

(2) If a council member to whom subsection (1) applies does not resign immediately,

a) the council may apply to the Supreme Court of the Northwest Territories for

i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a council member, or

ii) an order declaring the person to be disqualified from council;

or

b) an elector who

i) files an affadavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a council member, and

ii) pays into court the sum of $500 as security for costs,

may apply to the Supreme Court of the Northwest Territories for an order declaring the person to be disqualified from council.

(3) After hearing an application under this section, the judge may

a) declare the person to be disqualified and a position on council to be vacant;

b) declare the person able to remain a council member, or

c) dismiss the application.

(4) A judge who hears an application under this section and is of the opinion that a disqualification arose inadvertently or by reason of a genuine error in judgment may dismiss the application.

2. MEETINGS OF COUNCIL

N.B. The Committee recommends that the provisions under this heading remain the same as under the existing Acts except for one new section, which is set out below. For details on the other sections under this heading, please refer to the existing Acts.

2.2.1 **Meeting by electronic means** [NEW]

(1) Council may conduct a meeting by means of an electronic or other communication facility if the facility enables the members to hear and speak to each other, and the public to hear the members.

(2) Members participating in a meeting in the manner referred to in (1) are deemed to be present at the meeting.

3. BOARDS AND COMMISSIONS

2.3.1 **Establishment of boards and commissions** [NEW]

(1) A council may, by by-law, establish a board or commission to administer all or part of one or more programs and services within the jurisdiction of the municipal corporation.

(2) A by-law made under subsection (1) may provide for:

a) the powers and duties of the board or commission;

b) the reporting requirements of the board or commission;

c) the procedures of the board or commission;

d) the payment of

i) a reasonable allowance for expenses necessarily incurred in the performance of a board or commission member's duties;
ii) an indemnity to board or commission members for attending meetings of council or performing any other duties;

e) the appointment of members, including ex officio members and persons who are not council members, to the board or commission;
f) whether the board or commission is a separate body corporate; and
g) such other matters the council considers advisable.

(3) A board or commission must have at least one councillor as its member.
(4) The mayor is, ex officio, a member of every board and commission.
(5) The requirements with respect to meetings of council committees apply to meetings of boards or commissions unless otherwise provided for by by-law.

2.3.2 **Delegations to boards, commissions and council committees** [NEW]
(1) Subject to this section, a council may, by by-law, delegate any of its powers, duties or functions under this or any other enactment or a by-law to a committee of council, or to a board or commission , unless this or any other enactment or by-law provides otherwise.
(2) A council may not delegate to a board or commission or to a committee of council
a) a power or duty to pass by-laws
b) its power to make, suspend or revoke the appointment of a person to the position of senior administrative officer
c) its powers under this Act to adopt budgets
d) a duty to hear complaints or decide appeals imposed on it by this or another enactment or by-law, unless the delegation is to a committee of council.

4. COUNCIL MEMBERS

2.4.1 **Duties of council** [NEW]
A council is responsible for
a) developing and evaluating the plans, policies and programs of the municipal corporation;
b) making sure that the powers, duties and functions of the municipal corporation are appropriately carried out;
c) carrying out the powers, duties and functions expressly given to it under this or any enactment.

2.4.2 **Duties of councillors** [NEW]
Councillors have the following duties:
a) to consider the welfare and interests of the municipality as a whole and to bring to council's attention anything that would promote the welfare or interests of the municipality;
b) to participate generally in developing and evaluating the policies and programs of the municipal corporation;
c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;
d) to obtain information about the operation or administration of the municipal corporation from the senior administrative officer or a person designated by the senior administrative officer;
e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public; and

f) to perform any other duty or function imposed on councillors by this or any other enactment or by the council.

2.4.3 **Code of ethics** [NEW]
A council may adopt a code of ethics for council members.

2.4.4 **Entitlement to vote** [SAME]
(1) Subject to subsection (2), every council member has one vote at a meeting of council or a committee of council.
(2) The right of the mayor or other presiding member to vote is subject to procedural rules made by the council.

2.4.5 **Deemed resignation for non-attendance** [SAME]
A council may, by by-law, provide that where any council member is absent from regular meetings of council, without the consent of the council, more than a certain number of times specified in the by-law, the council member shall be deemed to have resigned.

2.4.6 **Indemnities and allowances to council members** [SAME]
Subject to this Act, a council may, by by-law, provide for the payment of
a) an annual indemnity
i) to the mayor, and
ii) to the councillors;
b) an indemnity to council members for attending meetings of council or for performing any other duties; and
c) a reasonable allowance for expenses necessarily incurred in the performance of a council member's duties.

5. RECORDS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

6. MAYOR

2.6.1 **Duties of mayor** [NEW]
A mayor, in addition to performing the duties of a councillor, must
a) preside when in attendance at a council meeting except where the procedures by-law, or this or any other Act provides otherwise;
b) provide leadership and direction to council; and
c) perform any other duty imposed on a mayor by this or any other enactment, or a by-law.

2.6.2 **Deputy mayor** [SAME]
(1) A council, on the recommendation of the mayor, may appoint a councillor to be the deputy mayor.
(2) The deputy mayor shall
a) perform the duties and may exercise the powers of the mayor when the mayor is absent or unable to act; and

b) perform other duties and may exercise other powers, subject to the authority of the mayor, that the council may determine.

2.6.3 **Acting mayor** [SAME]
(1) Where both the mayor and the deputy mayor are absent or unable to act, the council may appoint a councillor to be the acting mayor.
(2) The acting mayor has the same powers and duties as the deputy mayor.

7. OFFICERS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

8. EMPLOYEES

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

PART III

CORPORATE POWERS

The Committee recommends that the provisions on corporate powers be organized under one part to make the Act easier to use. Other recommendations are new sections to

- ***describe the corporate status of municipalities,***
- ***require councils to proceed in the same manner as for a long-term borrowing by-law for leases of real property exceeding ten years unless the payments will only be nominal, or the lease will be self-liquidating (i.e. if the municipal corporation will sublease the real property),***
- ***provide councils with explicit economic development powers, and***
- ***facilitate public/public and public/private partnerships.***

Substantial changes to the provisions on community agreements are also recommended to allow agreements with the Government of Canada, other municipalities, and First Nations governments and organizations, and to require that future community agreements include dispute resolution processes.

1. GENERAL

3.1.1 **Corporate status** [NEW]
A municipal government is a corporation and, subject to this Act, has the rights and is subject to the liabilities of a corporation and may exercise its powers for municipal purposes.

3.1.2 **Corporate seal** [SAME]
Every municipal corporation shall have a corporate seal.

2. CONTRACTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

3. PROPERTY

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one new section, which is set out below. For details on the other sections under this heading, please refer to the existing Acts.

3.3.1 **Long term leases of real property** [NEW]

(1) For the purposes of this Act

a) a lease of real property with a fixed term beyond ten years or a fixed term of ten years or less but with a right of renewal that would, if exercised, extend the original term beyond 5 years, and

b) an agreement to purchase real property that creates an interest in the real property to secure payment of the real property's purchase price if payment of the purchase price under the agreement exceeds 10 years

are deemed to be forms of long term borrowing.

(2) Subsection (1) does not apply where the payments made are nominal or where the general revenues of the municipal corporation are to bear no part of the cost of leasing or paying the purchase price of the real property.

4. ECONOMIC DEVELOPMENT

3.4.1 **Economic development powers** [NEW]

(1) In this section, "economic development" means the establishment, expansion or continuation of a business or industry.

(2) Subject to limitations on its powers in this or any other enactment or a by-law, a council may encourage economic development in any manner it considers appropriate and, for that purpose, may enter into an agreement with a person, with a local or regional aboriginal organization, with an agency of the Government of the Northwest Territories or the Government of Canada, or with another municipal or settlement government, including a local government outside of the Northwest Territories.

5. COMMUNITY AGREEMENTS

3.5.1 **Community agreements** [AMENDED]

(1) A council may, by by-law, authorize the municipal corporation to enter into a community agreement with the Government of the Northwest Territories or the Government of Canada delegating to the municipal corporation the authority and responsibility for the administration and delivery of any service or program specified in the agreement.

(2) A council may, by by-law, authorize the municipal corporation to enter into a community agreement with one or more other municipal or settlement corporations or First Nations governments or organizations within the Northwest Territories respecting the administration and delivery of a service or program.

(3) A community agreement may provide a municipal corporation with the authority to administer and deliver a service or program within or outside the boundaries of the municipality, or for other communities in a region.

(4) A municipal corporation has, subject to the terms and conditions of a community agreement, the power to administer and deliver any service or program delegated to the municipal corporation by the community agreement and, for greater certainty, the administration and delivery of such a service or program in accordance with the community agreement is deemed, for the purposes of this Act, to be a municipal purpose.

~~Where provided for in a community agreement, a council may, by by-law,~~

~~a) establish a board or commission to administer all or part of a program or service delegated to the municipal corporation under the community agreement; and~~

~~b) define the powers and duties of the board or commission established under paragraph a).~~

(5) Every community agreement must include a provision describing a process for the settling of disputes.

(6) A community agreement is of no effect until it receives the approval of the Minister.

(7) An agreement similar in nature and purpose to a community agreement that was entered into before the coming into force of this section is deemed to be a community agreement entered into under this section.

3.5.2 **Joint boards and commissions** [NEW]

A community agreement may provide for the establishment of a board or commission to be jointly controlled by two or more parties to the agreement, and any matters with respect to the board or commission that the parties consider advisable.

3.5.3 **Public/private partnerships** [NEW]

(1) A council may, by by-law, authorize the municipal corporation to enter into an agreement with any person for the provision of a service or a capital facility that the municipal corporation is authorized to provide.

(2) An agreement may allow for the lease, operation or maintenance of the facility or provision of the service by any person including the sale or disposition to that person of property of the municipal corporation that is still required for the purposes of the municipal corporation.

(3) A municipal corporation may provide assistance to any person who has entered into an agreement by

a) guaranteeing borrowing; and
b) providing the services of employees of the municipal corporation,

but the assistance shall only be for the performance of the agreement.

(4) A municipal corporation may borrow from any person who has entered into an agreement for a period not exceeding the length of the agreement.

6. MUNICIPAL SERVICES AND BUSINESSES

3.6.1 **Municipal services** [NEW]

(1) A municipal corporation may for municipal purposes do the following:

a) construct, operate, repair, improve and maintain works and improvements;
b) acquire, establish, maintain and operate services, facilities and utilities;
c) use municipal equipment, materials and labour to carry out private works on private property.

(2) A municipal corporation exercising these powers may, by by-law, subject to the *Public Utilities Act*, set terms and conditions in respect of users, including

a) setting the rates or amounts of deposits, fees and other charges, and charging them and collecting them;
b) providing for a right of entry onto private property to determine compliance with other terms and conditions, to determine the amount of deposits, fees or other charges, or to disconnect a service; and
c) discontinuing or disconnecting a service and refusing to provide the service to users who fail to comply with the terms and conditions.

3.6.2 **Corporations** [NEW]

(1) A municipal corporation may, with the approval of the Minister, establish or acquire shares in a corporation for the purposes of carrying on a municipal business, program or service solely, or jointly with one or more parties to a community agreement or public/private partnership agreement where provided for in the agreement.
(2) The Minister may approve the establishment, or acquisition of shares in, a corporation where the Minister considers it to be in the public interest.

3.63 **Municipal businesses for profit** [AMENDED]
(1) A municipal corporation may carry on a <u>for profit</u> business to provide a service that the municipal corporation is not otherwise authorized to ~~provide~~ carry on under this Act where the Minister considers it to be in the public interest.
(2) Where the Minister considers the carrying on of a <u>for profit</u> business by the municipal corporation to be in the public interest, the carrying on of that business is deemed , for the purposes of this Act, to be a municipal purpose.

3.6.4 **Reduction in rates** [SAME]
A council may, by by-law, provide for the reduction or waiver of a charge for the use of a sewage, drainage or water distribution system, where any past or present owner or occupier of the real property has paid for any portion of the sewage, drainage or water distribution system.

PART IV

FINANCIAL AFFAIRS

The Committee recommends a number of changes to this Part to remove unnecessary regulations and procedures, and to increase accountability where appropriate. Specific recommendations are:

- ***new requirements for certain financial documents to be available for members of the public to look at;***
- ***removal of the requirement for municipal taxing authorities to have long-term borrowing approved by the Minister;***
- ***allowing the Minister to provide by regulation that long-term borrowing below a specified amount does not require ratepayer approval;***
- ***allowing the Minister to approve exemptions from ratepayer approval for long-term borrowing instead of requiring Cabinet approval;***
- ***changing the requirements for forgiveness of debt by-laws to be approved by the Minister to requirements for public notice to be given of these by-laws before they receive third reading;and***
- ***allowing for maximum borrowing amounts to be set by regulation.***

The Committee also recommends expanding municipal powers under this Part by:

- ***allowing municipal corporations to make loans and guarantees in certain circumstances;***
- ***expanding the circumstances in which non tax-based municipalities may borrow on a long term basis; and***
- ***expanding current powers to invest surplus money.***

Finally, the Committee recommends adopting the Canadian Institute of Chartered Accountants guidelines for financial statements.

1. BUDGETS

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one new section which is set out below. For details of the other sections under this heading, please refer to the existing Acts.

4.1.1 **Public access to budgets** [NEW]

A copy of the current year's budget must be available for inspection by members of the public at the offices of the municipal corporation during regular business hours.

2. EXPENDITURES AND DISBURSEMENTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

3. FINANCIAL STATEMENTS

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one new section and one amended section, both of which are set out below. For details of the other sections under this heading, please refer to the existing Acts.

4.3.1 **Public access to financial statements** [NEW]
A copy of the municipal corporation's financial statements and auditor's reports must be available for inspection by members of the public at the offices of the municipal corporation during regular business hours.

4.3.2 **Requirements of financial statements** [AMENDED]
The financial statements must be prepared

a) in accordance with an appropriate disclosed basis of accounting;
b) on a basis consistent with that of the preceding fiscal year or another disclosed basis;
c) in accordance with the generally accepted accounting principles recommended from time to time by the Canadian Institute of Chartered Accountants; and
d) in accordance with guidelines issued by the Minister.

4. BORROWING

4.4.1 **Prohibition** [SAME]
No municipal corporation shall borrow money except in accordance with this Act or the *Northwest Territories Housing Corporation Act*.

4.4.2 **Temporary borrowing** [SAME]
(1) A council may, by by-law, authorize the municipal corporation to borrow on a temporary basis for a period not exceeding one year, the amounts that may be needed to meet expenditures lawfully authorized to be incurred but for which revenues received are insufficient.
(2) The municipal corporation may borrow under subsection (1) by way of overdraft, line of credit, temporary loan, unsecured note or other arrangement.
(3) A by-law made under subsection (1) may provide for those administrative matters in respect of the borrowing that the council considers necessary or advisable.

4.4.3 **Long-term borrowing** [SAME]
(*Hamlets* and *Charter Communities*)

Where a municipal corporation is a municipal taxing authority, the council may, by by-law, authorize the municipal corporation to borrow on a long-term basis for a period exceeding one year, amounts that may be needed for municipal purposes.

(Cities, Towns and Villages)
A council may, by by-law, authorize the municipal corporation to borrow on a long-term basis for a period exceeding one year, amounts that may be needed for municipal purposes.

4.4.4 **Maximum amounts** [NEW]
The Minister may, by regulation, prescribe the maximum amounts that a municipal corporation or municipal corporations may borrow on a long term or on a short term basis.

4.4.5 **Ratepayer approvals** [AMENDED]
(1) Every long-term borrowing by-law made under section 4.4.3 must be approved by ~~the Minister and~~ the ratepayers, unless the by-law is exempted by the Minister under section 4.4.6 or the regulations, or the borrowing is for a local improvement.
(2) The Minister may, by regulation, prescribe that long term borrowing of amounts below a set amount does not require ratepayer approval.
(3) A regulation made under subsection (2) may apply to one or more municipal corporations.

4.4.6 **Exemptions from ratepayer approval** [AMENDED]
The Minister ~~with the approval of the Executive Council~~ may, by order, exempt a long-term borrowing by-law under section 4.4.6 from the approval of the ratepayers where
a) the money to be secured by way of long-term debt security is to be used to
i) finance a project other than a local improvement, or
ii) refinance an existing long-term debt security; and
b) the general revenues of the municipal corporation are to bear no part of the cost of the activities referred to in paragraph (a).

[*Cities, Towns and Villages* only]: ~~Notwithstanding that the general revenues of the municipal corporation may bear a part of the cost of a project referred to in paragraph (a), the Minister with the approval of the Executive Council may, by order, exempt a long-term borrowing by-law from the approval of the ratepayers where~~
~~a) the money to be secured by way of long-term debt security is to be used to finance a project other than a local improvement; and~~
~~b) the Minister is satisfied that the borrowing proposed under the long-term borrowing by-law will result in a net savings to the municipal corporation.~~

4.4.7 **Long-term borrowing, non tax-based** [AMENDED - *Hamlets* and *Charter Communities* only]
(1) Where a municipal corporation is not a municipal taxing authority, the council may, by by-law, approved by the Minister on the recommendation of the Executive Council, and in accordance with the regulations, authorize the municipal corporation to borrow on a long-term basis for a period exceeding one year, where the municipal corporation has identified in its request for approval the revenues to be used to make the debt payments.
~~a) the money to be secured is to be used to finance the development of municipal lands; and~~

~~b) the general revenues of the municipal corporation are to bear no part of the cost of a development referred to in paragraph (a).~~

(2) The Minister may make regulations prescribing additional conditions for borrowing by municipal corporations or a municipal corporation under subsection (1).

4.4.8 **Content of long-term borrowing by-law** [SAME]

(1) Every long-term borrowing by-law must

a) set out
   i) the principal amount to be borrowed
   ii) the specific purpose for which the money is being borrowed,
   iii) the term of the long-term debt securities to be issued or entered into, and
   iv) in the case of a municipal taxing authority, the total current assessed value of all property in the municipality on which property taxes are paid or in respect of which grants are made in place of that taxation;
b) authorize the issue or entering into of long-term debt securities in an amount not exceeding in total the amount set out in subparagraph (a)(I); and
c) be in the form and contain any other provisions that the Minister may require.

(2) A long-term borrowing by-law may provide for those administrative matters in respect of the borrowing that the council considers necessary or advisable.

4.4.9 **Term of debt securities** [SAME]

The term of every long-term debt security issued or entered into by a municipal corporation must be no greater than the expected life of the asset in respect of which the money is being borrowed.

4.4.10 **Requirements for long-term debt securities** [SAME]

(1) Every long-term debt security issued or entered into by a municipal corporation must be

a) issued or entered into in accordance with a valid long-term borrowing by-law;
b) signed by
   i) the mayor or a councillor designated by council; and
   ii) the senior administrative officer; and
c) under the seal of the municipal corporation.

(2) A long-term debt security issued or entered into by a municipal corporation and any interest payable under the long-term debt security may be made payable anywhere in Canada.

4.4.11 **Authorized lenders** [SAME]

A municipal corporation may borrow, under a long-term borrowing by-law, only from

a) a prescribed lender; or
b) a lender who is a member of a prescribed class of lenders.

4.4.12 **Forwarding copy of debt security to Minister** [SAME]

(*Hamlets* and *Charter Communities*)

Where a municipal corporation is a municipal taxing authority, the senior administrative officer shall forward to the Minister a copy of every long-term debt security issued or entered into within 30 days after it is issued or entered into.

(*Cities, Towns and Villages*)

The senior administrative officer shall forward to the Minister a copy of every long-term debt security issued or entered into within 30 days after it is issued or entered into.

4.4.13 **Approval of debt securities, non tax-based** [SAME - *Hamlets* and *Charter Communities* only]
(1) Where a municipal corporation is not a municipal taxing authority, the senior administrative officer shall forward to the Minister every long-term debt security before it is issued or entered into.
(2) Where the Minister is satisfied that a long-term debt security is being issued or entered into in compliance with this Act, the Minister shall
a) provide his or her written approval to the municipal corporation to issue or enter into the long-term debt security; and
b) return the long-term debt security to the municipal corporation.

4.4.14 **Use and repayment of borrowed money** [SAME]
(1) No person shall expend any money borrowed under a long-term borrowing by-law except for the purposes set out in the by-law.
(2) Any money borrowed from the Government of the Northwest Territories under a long-term borrowing by-law that is unexpended after achieving the purposes set out in the by-law must, within 60 days of the date those purposes are achieved, be repaid to the Government of the Northwest Territories.
(3) Any money borrowed from the Government of the Northwest Territories under a long-term borrowing by-law must be repaid by the municipal corporation in accordance with the repayment terms established by the Government of the Northwest Territories at the time of the loan.

4.4.15 **Refinancing long-term debt securities** [SAME]
A long-term debt security issued or entered into by a municipal corporation to refinance an existing long-term debt security issued or entered into under a long-term borrowing by-law exempted from ratepayer approval must have
a) a principal amount not exceeding the principal amount borrowed under the existing long-term debt security;
b) a term not exceeding the term of the existing long-term debt security; and
c) a total amount of principal and interest payable in a year under the refinanced long-term debt security not exceeding the amount of principal and interest that was payable in a year under the existing long-term debt security.

5. LOCAL IMPROVEMENTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

6. FORGIVENESS OF DEBTS

4.6.1 **Prohibition** [SAME]
No municipal corporation shall forgive a debt owed to it except in accordance with section 4.6.2 or section 4.6.3.

4.6.2 **Forgiveness of debt by-law** [AMENDED]

(1) A council may, by by-law, ~~approved by the Minister,~~ forgive a debt owed to the municipal corporation in whole or in part, if

a) the debt is not in respect of property taxes; and
b) the council is satisfied that
   i) the debt is not collectible, or
   ii) there are other reasons justifying the forgiveness of the debt.

(2) A by-law made under subsection (1) must set out

a) the name of the debtor;
b) the date the debt was incurred;
c) the nature of the debt;
d) the amount of the debt; and
e) the reason for the forgiveness.

(3) A council may not give third reading to a by-law under this section unless it has first given thirty days public notice of the proposed by-law.

4.6.3 **Exception** [SAME]

Notwithstanding section 4.6.2, a council may, by by-law, approved by the Minister, forgive a debt owed to the municipal corporation in whole or in part, where

a) the debt is in respect of property taxes where no special lien attaches against land for non-payment of the property taxes; and
b) the council is satisfied that the debt is not collectible or there are other reasons justifying the forgiveness of the debt.

4.6.4 **Effect of forgiveness** [SAME]

There is no obligation to pay a debt, owed to the municipal corporation, that is forgiven in accordance with this section.

7. GRANTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

8. LOANS AND GUARANTEES

4.8.1 **Loans and guarantees by-laws** [NEW]

A council may, by by-law, approved by the Minister, lend money or guarantee the repayment of a loan if

a) the loan is authorized by a community agreement and is made to another municipal corporation within the Northwest Territories or a board, commission or corporation jointly controlled by one or more municipal corporations within the Northwest Territories;
b) the loan is made to a board, commission or corporation controlled by the municipal corporation;
c) the guarantee is authorized by a community agreement and is made in respect of a loan between a lender and another municipal corporation within the Northwest Territories or a board, commission or corporation jointly controlled by one or more municipal corporations within the Northwest Territories;

d) the guarantee is made in respect of a loan between a lender and a board, commission or corporation controlled by the municipal corporation; or
e) the loan or guarantee is made in accordance with the provisions on public/private partnership agreements.

4.8.2 **Contents of loans by-laws** [NEW]
A by-law authorizing a loan must set out
a) the amount of money to be loan and, in general terms, the purpose for which the money that is loaned is to be used;
b) the minimum rate of interest, the term and the terms of repayment of the loan; and
c) the source or sources of the money to be loaned.

4.8.3 **Contents of guarantee by-laws** [NEW]
A by-law authorizing a guarantee must set out
a) the amount of money to be borrowed under the loan to be guaranteed and, in general terms, the purpose for which the money is borrowed;
b) the rate of interest under the loan or how the rate of interest is calculated, the term and the terms of repayment of the loan; and
c) the source or sources of money to be used to pay the principal and interest owing under the loan if the municipal corporation is required to do so under the guarantee.

9. INVESTMENTS

4.9.1 **Definition of "securities"** [NEW]
In this section, "securities" includes bonds, debentures, treasury bills, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and mortgages of real estate or leaseholds and rights or interests in respect of a security.

4.9.2 **Authorized investments** [AMENDED]
A council may, by resolution, authorize the senior administrative officer to invest surplus money belonging to the municipal corporation in the following:
a) securities issued or guaranteed by
i) the Government of Canada or an agency of the Government of Canada
ii) the government of a province or territory or an agency of the government of a province or territory;
b) securities the payment of which is a charge on the Consolidated Revenue Fund of the Government of Canada or a province or territory of Canada;
c) securities of a municipal corporation in Canada;
d) securities of a Canadian municipal participation corporation
e) securities issued or guaranteed by a bank, credit union or trust corporation;
f) securities that are insured by the *Canada Deposit Insurance Corporation Act;*
g) investments authorized by the Minister by regulation; and
h) units in pooled funds of all or any of the investments described in paragraphs (a) to (g).

~~a) in certificates of deposit, deposit receipts, notes or other evidences of indebtedness given by a bank in consideration of deposits made with the bank;~~

~~b) in securities where repayment of principal and interest is unconditionally guaranteed by a bank; and~~

~~c) in an investment within the classes of investments enumerated in section 86 of the *Canadian and British Insurance Companies Act (Canada).*~~

4.9.3 **Pooled funds** [NEW]

(1) A municipal corporation may, where authorized by a community agreement, form a pooled investment fund with another municipal corporation and with any entity approved by the Minister by regulation.

(2) The money in a pooled investment fund may be used only to make investments authorized under section 4.9.2.

4.9.4 **Regulations** [NEW]

The Minister may, by regulation, prescribe standards and guidelines for investments made by municipal corporations or a municipal corporation.

PART V

BY-LAWS

The Committee recommends that most by-law making powers be set out as spheres of jurisdiction, including general powers to provide for the enforcement of by-laws.

It is proposed that the requirement for Ministerial approval of by-laws on municipal flags, crests and coats of arms be removed.

To ensure that everyone can have a clear idea of their rights and obligations with respect to voter petitions, the Committee also recommends a number of new provisions describing the procedures for voter petitions.

1. GENERAL JURISDICTION

5.1.1 **Interpretation** [NEW]
The power given to a council under section 5.1.2 to pass by-laws is stated in general terms

a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
b) to enhance the ability of the council to respond to present and future issues in the municipality.

5.1.2 **Spheres of jurisdiction** [NEW]
A council may pass by-laws for municipal purposes respecting the following matters:

a) the safety, health and welfare of people and the protection of people and property;
b) people, activities and things in, on or near a public place or place that is open to the public;
c) nuisances, including unsightly property;
d) local transportation systems;
e) businesses, business activities and persons engaged in business;
f) programs, services, utilities and facilities provided by or on behalf of the municipality;
g) wild and domestic animals and activities in relation to them;
h) the enforcement of by-laws.

5.1.3 **Exercising by-law making powers** [NEW]
Without restricting section 5.1.2, a council may in a by-law passed under this Part

a) regulate or prohibit;
b) create offences;

c) provide that a person who is guilty of an offence under a by-law is liable on summary conviction to a fine in an amount specified in the by-law not exceeding
   i) $2,000 for an individual; or
   ii) $10,000 for a corporation,
   or to imprisonment for a term not exceeding six months in default of payment of a fine
d) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or territory or a recognized technical or professional organization, and require compliance with the code or standard;
e) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways;
f) establish fees or other charges for services, activities or things provided or done by the community or for the use of property under the ownership, direction, management or control of the municipal corporation;
g) provide for a system of licences, permits or approvals, including any or all of the following:
   i) establishing fees that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue
   ii) establishing higher fees for non-residents
   iii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval has been granted;
   iv) providing that terms and conditions may be imposed on any licence, permit or approval, the nature of the terms and conditions and who may impose them;
   v) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them;
   vi) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the by-law or for any other reason specified in the by-law;
h) except where a right of appeal is already provided in this or any other Act, provide for an appeal, the body that is to decide the appeal and related matters.

5.1.4 **Content of by-laws under paragraph 5.1.2 (h)** [NEW]
Without limiting the generality of paragraph 5.1.2(h), a by-law passed under this paragraph may include provisions
a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
b) remedying contraventions of by-laws.

5.1.5 **Other by-law powers** [NEW]
(1) In this section, "specific by-law passing power" means a council's power or duty to pass a by-law that is set out in an enactment other than section 5.1.2.
(2) If a by-law could be passed under section 5.1.2 and under a specific by-law passing power, the by-law passed under section 5.1.2 is subject to any conditions contained in the specific by-law passing power.

(3) If there is an inconsistency between a by-law passed under section 5.1.2 and one passed under a specific by-law passing power, the by-law passed under section 5.1.2 is of no effect to the extent that it is inconsistent with the specific by-law passing power.

5.1.6 **Limit on power to make by-laws** [SAME]

(1) The power of a council to make by-laws is subject to all Acts and regulations of the Northwest Territories and Canada unless an Act or regulation expressly states otherwise.
(2) Where a by-law is inconsistent with an Act or regulation, the by-law is of no effect to the extent of the inconsistency.

5.1.7 **Geographical limitation** [SAME]

(1)Subject to subsection (2), a by-law applies only inside the boundaries of the municipality
(2) A by-law may apply outside the boundaries of a municipality in respect of

a) a sewage or drainage system,
b) a public incinerator,
c) a public garbage dump,
d) a water distribution system,
e) an airport, aerodrome or facilities for them,
f) fire protection services,
g) ambulance services,
h) recreation programs, services or facilities,
i) a public quarry,
j) a service or program undertaken by the municipal corporation in accordance with a valid community agreement or public/private partnership agreement,
k) a road outside the municipality and designated as a municipal road by the Minister, by order, on the recommendation of Executive Council

serving the residents of the municipality, with the approval of the Minister, on the recommendation of the Executive Council.

5.1.8 **Authority of community charter** [SAME – *Charter Communities only*]

A council may make by-laws under this Part only where it is specifically authorized to do so in its community charter.

2. PROCEDURES FOR MAKING BY-LAWS

5.2.1 **Readings** [SAME]

(1) Every by-law must have three distinct and separate readings to be effective.
(2) No council shall give more than two readings to a by-law at any one meeting of the council unless all council members are present at the meeting and, before the third reading, they all agree, by resolution , to give the by-law third reading at the same meeting.
(3) No council shall give a by-law third reading, unless the by-law is in writing.

5.2.2 **Requirements for by-laws** [SAME]

Every by-law, to be effective, must be

a) in writing;
b) under the seal of the municipal corporation;
c) signed by the mayor or other presiding council member; and
d) signed by the senior administrative officer.

5.2.3 **Effective date of a by-law** [SAME]
Subject to this Act, a by-law is effective on the date it meets the requirements of section 5.2.2 or at a later date that the by-law may fix.

5.2.4 **Posting and transmittal of by-laws** [SAME]
(1) The senior administrative officer shall ensure that a copy of every by-law is posted, as soon as possible after it has received third reading, in a conspicuous place at the office of the municipal corporation for at least six weeks.
(2) The senior administrative officer shall forward a copy of every by-law to the Minister or the designate of the Minister not later than 10 days after the by-law receives third reading.

5.2.5 **Amending or repealing by-laws** [SAME]
(1) Subject to this Act, a council may, by by-law, amend or repeal a by-law.
(2) The power of a council to amend or repeal a by-law is subject to the same conditions as the power to make the by-law.

5.2.6 **Evidence of a by-law** [SAME]
A copy of a by-law under the seal of the municipal corporation and certified by the senior administrative officer to be a true copy is admissible in evidence without further proof.

5.2.7 **Disallowance** [SAME]
The Minister, on the recommendation of the Executive Council, may disallow any by-law for any reason within one year after the by-law receives third reading.

3. APPROVALS

5.3.1 **Manner of obtaining approval** [SAME]
(1) Where, under this or any other Act, a by-law requires the approval of the Minister, the voters, the ratepayers or some other authority, the approval must be obtained before the by-law receives third reading.
(2) A by-law that receives the approval of the Minister, the voters, the ratepayers or some other authority must

a) be signed by the approving authority; or
b) where a signature is not practicable, have a certification of that approval endorsed on it by the senior administrative officer.

5.3.2 **Limit on resubmission for approval** [SAME]
If a by-law requiring the approval of the voters or ratepayers does not receive that approval, the council shall not submit another by-law for the same purpose to the voters or ratepayers within six months after the vote, except with the permission of the Minister.

5.3.3 **Procedure for obtaining approval** [SAME]
(1) Where this Act requires a by-law to be approved by the voters or ratepayers of a municipality, the approval must be obtained in accordance with this section.
(2) After the proposed by-law has been introduced and considered by the council, the council shall give public notice of the purpose of the by-law at least two weeks before the date of the vote.

(3) The council shall obtain the approval of the voters or ratepayers, in accordance with provisions of the *Local Authorities Elections Act* respecting an election, at the next election or at an earlier date that the council may require.
(4) The mayor shall, if requested, appoint in writing a sufficient number of persons form among those who support and those who oppose the proposed by-law to act as scrutineers at each voting station and at the final count of the ballots.
(5) The persons appointed as scrutineers have the same powers and duties as agents of a candidate at an election.

5.3.4 **Entitlement to vote** [SAME]
Where a ratepayer is a corporation, a group of co-owners or an unincorporated body of persons, the corporation, group or body, as the case may be, is entitled to only one vote on any by-law submitted to the ratepayers.

4. VOTER PETITIONS

5.4.1 **Petition for by-law** [SAME]
(1) Where at least 25% of the voters in a municipality petition the council to submit, for the approval of the voters, a by-law dealing with any matter within its power to make by-laws, the council shall

a) cause a by-law dealing with the subject matter of the petition to be prepared and read for the first time within 30 days of the petition being declared sufficient;
b) cause a copy of the by-law to be forwarded to the Minister; and
c) submit the by-law to the voters for their approval.

(2) If a majority of the voters who vote approve of the by-law referred to in subsection (1), the by-law as submitted shall be given third reading by the council within four weeks after the vote, without any alteration being made in the by-law affecting its substance.

5.4.2 **Requirements for a petition** [NEW]
(1) A petition must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.
(2) The petition must include, for each petitioner,

a) the printed surname and printed given names or initials of the petitioner,
b) the petitioner's signature,
c) the street address of the petitioner or the legal description of the land on which the petitioner lives, and
d) the date on which the petitioner signs the petition.

(3) Each signature must be witnessed by an adult person who must

a) sign opposite the signature of the petitioner, and
b) take an affadavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.

(4) The petition must have attached to it a signed statement of a person stating that

a) the person is the representative of the petitioners, and
b) the municipal corporation may direct any inquiries about the petition to the representative.

5.4.3 **Counting petitioners** [NEW]
(1) A petition must be filed with the senior administrative officer and the senior administrative officer is responsible for determining if the petition is sufficient.

(2) No name may be added to or removed from a petition after it has been filed with the senior administrative officer.
(3) In counting the number of petitioners on a petition there must be excluded the name of a person

a) whose signature is not witnessed,
b) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,
c) whose printed name is not included or is incorrect,
d) whose street address or legal description of land is not included or is incorrect,
e) if the date when the person signed the petition is not stated,
f) who does not meet the voter eligibility requirements under section 17 of the *Local Authorities Elections Act*, or
g) who signed the petition more than 60 days before the date on which the petition was filed with the senior administrative officer.

5.4.4 **Report on sufficiency of petition** [NEW]
(1) Within 30 days of the date on which a petition is filed, the senior administrative officer must make a declaration to the council on whether the petition is sufficient or insufficient.
(2) If a petition is not sufficient, the council is not required to take any notice of it.

5.4.5 **Time for holding vote** [NEW]
If a petition for a vote of the electors is filed with the senior administrative officer within 12 months before a general election and a vote of electors is to be conducted because of the petition, the council may direct that the vote be conducted at the general election.

5.4.6 **Limit on petitions on same subject** [NEW]
If a vote of the electors is conducted on a by-law, the council may refuse to receive any further petition on the same or a similar subject filed within one year of the date of the vote.

5.4.7 **By-laws passed as a result of petitions** [NEW]
A by-law the council was required to pass as a result of a vote of the electors may be amended or repealed only if

a) a vote of the electors is held on the proposed amendment or repeal and the majority of the electors voting vote in favour of the proposed amendment or repeal, or
b) 3 years have passed from the date the by-law was passed.

5.4.8 **Limit on petition subject matters** [NEW]
A petition requesting a by-law to be made on a subject under Part IV (Financial Administration), the *Property Assessment and Taxation Act* or the *Planning Act* is of no effect.

5. QUASHING BY-LAWS AND RESOLUTIONS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

6. ROADS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

7. UTILITY FRANCHISES

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

8. AIRPORTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

9. WATER DISTRIBUTION, SEWAGE AND DRAINAGE SYSTEMS

5.9.1 **Contents of by-laws** [SAME]

A by-law providing for the establishment, operation, maintenance or alteration of

a) a sewage system to collect, convey and dispose of sewage;
b) a drainage system to collect, convey and dispose of surface and other waters; or
c) a water distribution system for the supply of water for drinking and other purposes,

must state the sources of funding for all costs that will be incurred by the municipal corporation as a result.

5.9.2 **Mandatory connection to system** [SAME]

A council may, by by-law, require the owners of real property to connect their buildings and structures to a water distribution system or to a sewage and drainage system in the manner that the by-law may require.

5.9.3 **Costs of connection** [SAME]

A council may, by by-law, impose a charge on the owner of real property for the costs incurred by the municipal corporation in providing a connection between a water distribution system or a sewage and drainage system and the edge of the real property to be served.

10. MISCELLANEOUS POWERS

5.10.1 **Flag, crest and coat of arms** [AMENDED]

A council may, by by-law, ~~approved by the Minister,~~

a) adopt a flag, crest or coat of arms for the municipal corporation; and
b) make rules for the use of the flag, crest or coat of arms.

5.10.2 **Census and civic holiday** [SAME]

A council may, by by-law,

a) provide for a census to be taken in the municipality; and
b) declare one day a year to be a civic holiday.

11. LIMITATIONS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

PART VI

LIABILITY, ENFORCEMENT AND OTHER LEGAL MATTERS

The Committee recommends a number of new provisions to limit municipal liability for certain matters and activities, such as municipal facilities, services and utilities, fire protection, roads, exercising discretion, inspections and maintenance and remedying contraventions of by-laws. The Committee also recommends extending the current personal civil liability protections for council members to municipal officers, volunteer workers and board members.

Consistent with the "spheres of jurisdiction" approach to describing by-law making authority, the Committee recommends a number of changes to provide municipalities with powers that will allow them to effectively enforce their by-laws. Specific recommendations are to:

- ***provide municipalities with a general authority to conduct inspections and remedy contraventions, and set out procedures to be followed in doing so;***
- ***provide for council to, on request, hear people who have had orders issued to them on request;***
- ***allow appeals from decisions of the council only where the required procedures have not been followed, or where the decision is patently unreasonable;and***
- ***include a provision that where a municipality removes a structure and subsequently sells all or a part of it, that the proceeds of the sale be used to pay expenses and costs of the removal and excess proceeds are paid to the person entitled to them.***

To increase the ability of the Minister to intervene where a municipality is in difficulty without resorting to the appointment of an administrator, the Committee recommends:

- ***that the scope of municipal inspections be expanded to include operations, and that inspections only take place at the request of the council or the Minister; and***
- ***that new provisions for the appointment of "municipal supervisors" without dissolving the council be enacted.***

Finally, the Committee recommends new provisions allowing the Minister to recover all or part of the cost of a supervisor or administrator from the municipal corporation. This would be appropriate in many cases, for example, where the municipal corporation is no longer paying the salary of a senior administrative officer.

1. LIABILITY

6.1.1 **Definitions** [NEW]

In the following sections,

a) "municipal officer" means the senior administrative officer and designated officers, and employees of the municipal corporation,

b) "volunteer worker" means a volunteer member of a fire or ambulance service or emergency measures organization established by a municipal corporation, or any other volunteer performing duties under the direction of a municipal corporation,

c) "board member" means a member of a board or other body established by the municipal corporation under this Act, and

d) "public utility" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:

i) water or steam;
ii) sewage disposal;
iii) public transportation operated by or on behalf of the municipality;
iv) drainage;
v) fuel;
vi) electric power;
vii) heat;
viii) waste management;

and includes the thing that is provided for public consumption, benefit, convenience or use.

6.1.2 **Limit on liability of council and board members, officers and volunteers** [AMENDED]

(1) Subject to the *Conflict of Interest Act*, no council member is liable to any civil action, prosecution, arrest, imprisonment or damages by reason of

a) anything said by the council member in a meeting of council or a committee of council, or

b) anything brought before council or a committee of council by the council member,

unless it is said or brought with malicious intent.

(2) Subject to the *Conflict of Interest Act*, no council member, council committee member, board member, municipal officer, or volunteer worker, is liable for loss or damage by reason of anything said or done or omitted to be done in the performance or intended performance of his or her functions, duties or powers under this Act.

(3) Subsection (2) is not a defence where

a) the cause of action is defamation; or

b) the council member, council committee member, board member, municipal officer or volunteer worker was dishonest, grossly negligent or guilty of wilful misconduct.

(4) Subsection (2) does not affect the legal liability of the municipal corporation.

6.1.3 **Non-negligence actions** [NEW]
A municipal corporation is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, if the damage arises, directly or indirectly, from roads or from the operation or non-operation of a public utility.

6.1.4 **Exercise of discretion** [NEW]
A municipal corporation that has the discretion to do something is not liable for deciding not to do that thing in good faith or for not doing that thing.

6.1.5 **Inspections and maintenance** [NEW]
A municipal corporation is not liable for damage caused by

a) a system of inspection, or the manner in which inspections are to be performed or the frequency, infrequency or absence of inspections, and
b) a system of maintenance, or the manner in which maintenance is to be performed or the frequency, infrequency or absence of maintenance.

6.1.6 **Public facilities** [NEW]
(1) In this section, "public facility" means a place that is subject to the direction, control and management of a municipal corporation.
(2) A municipal corporation is not liable for failing to maintain a public facility in a reasonable state of repair unless the municipal corporation knew or ought to have known of the state of disrepair and failed to take steps to rectify the state of disrepair within a reasonable period of time.

6.1.7 **Public utilities and municipal services** [NEW]
Where a municipal corporation operates a public utility or provides a service, it is not liable for loss or damage as a result of

a) the breaking of a pipe, conduit, pole, wire, cable or other part of the utility or service; or
b) the discontinuance or interruption of a service or connection;

by reason of

c) accident;
d) disconnection for non-payment or non-compliance with a term or condition of service; or
e) necessity to repair or replace a part of the utility or service.

6.1.8 **Water overflow** [NEW]
Where an overflow of water from a sewer, drain, ditch or watercourse is a consequence of excessive snow, ice or rain, a municipal corporation is not liable for a loss as a result of the overflow.

6.1.9 **Fire protection** [NEW]
For the purpose of determining the standard of care of a municipal corporation in an action or proceeding relating to the provision by the municipal corporation of a protective fire service, the court shall consider all relevant factors that might reasonably have affected the ability of the municipal corporation to provide the fire protection services, including, but not limited to,

a) the population density of the municipality
b) geographic limitations to the provision of the service;

c) whether the service provided is volunteer or partly volunteer;
d) the revenues of the municipal corporation; and
e) any other criteria specified by the Minister by regulation.

6.1.10 **Remedying contraventions of by-laws** [NEW]
A municipal corporation is not liable for loss or damage caused by it in remedying, or attempting to remedy, a contravention of a by-law, unless the municipal corporation is grossly negligent.

6.1.11 **Negligent supervision by others** [NEW]
Where a municipal corporation entrusts the construction of a public work or a public facility to the supervision of an engineer, architect, surveyor or other person with relevant expertise to supervise the construction, the municipal corporation is not liable for loss or damage arising from any negligence on the part of the supervisor unless the supervisor is exempt from liability under section 6.1.2.

6.1.12 **Limitation of actions respecting roads** [SAME]
An action for damages caused by the negligent maintenance or repair of a municipal road may not be commenced unless
a) notice is given to the senior administrative officer, in writing, within 30 days after the damage was sustained or within such longer period of time as a council may, by by-law, designate; and
b) the action is commenced not later than two years after the damage was sustained.

6.1.13 **Repair of roads** [NEW]
(1) Every road that is subject to the direction, control and management of the municipal corporation must be kept in a state of reasonable repair by the municipal corporation having regard to
a) the character of the road, and
b) the area of the municipality in which it is located.
(2) The municipal corporation is liable for damage caused by the municipal corporation failing to perform its duty under subsection (1).
(3) This section does not apply to any road made or laid out by a private person until the road is subject to the direction, control and management of the municipal corporation.
(4) A municipal corporation is not liable under this section unless the claimant has suffered by reason of the default of the municipal corporation a particular loss or damage beyond what is suffered by the claimant in common with all other persons affected by the state of repair.
(5) A municipal corporation is not liable under this section in respect of acts done or omitted to be done by persons exercising powers or authorities conferred on them by law, and over which the municipal corporation has no control, if the municipal corporation is not a party to those acts or omissions.
(6) A municipal corporation is liable under this section only if the municipal corporation knew or should have known of the state of repair.
(7) A municipal corporation is not liable under this section if it proves that it took reasonable steps to prevent the disrepair from arising.
(8) When a traffic control device has been defaced, removed or destroyed by someone other than a designated officer or employee or agent of the municipal corporation, the municipal corporation is liable under this section only if the municipal corporation
a) had actual notice of the defacement, removal or destruction, and

b) failed to restore, repair or replace the traffic control device in a reasonable period of time.

6.1.14 **Things on or adjacent to roads** [NEW]
A municipal corporation is not liable for damage caused
a) by the presence, absence or type of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on a road, or
b) by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or on a road that is not on the travelled portion of the road.

6.1.15 **Snow on roads** [NEW]
(1) A municipal corporation is only liable for an injury to a person or damage to property caused by snow, ice or slush on roads or sidewalks in the municipality if the municipal corporation is grossly negligent.
(2) A person who brings an action claiming gross negligence described in subsection (1) must notify in writing the senior administrative officer of the municipal corporation of the event that gives rise to the action within 30 days of the occurrence of the event, or such longer time as the council may establish, by by-law.

2. ENFORCEMENT

6.2.1 **Appointment of by-law officers** [SAME]
A council may, by by-law, appoint by-law officers to enforce any or all of its by-laws and establish their specific duties.

6.2.2 **Duties to enforce by-laws** [SAME]
(1) A by-law officer may represent the municipal corporation before a justice of the peace in the prosecution of a person charged with an offence under a by-law.
(2) A by-law officer shall enforce those by-laws of the municipal corporation that he or she is appointed to enforce under section 6.1.
(3) Every by-law officer is an officer as defined in the *Motor Vehicles Act* and shall enforce that Act and the *All-terrain Vehicles Act*.

6.2.3 **Inspections and enforcement** [NEW]
(1)If this or any other enactment or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipal corporation, a designated officer of the municipal corporation may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement or action,
a) enter such land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the enactment or by-law.
b) request anything be produced to assist in the inspection, remedy, enforcement or action, and
c) make copies of anything related to the inspection, remedy, enforcement or action.

(2) The designated officer must display or produce on request identification showing that the person is authorized to make the entry.
(3) Where the council or designated officer authorized to do a thing under subsection (1) is of the opinion that there is imminent danger to public health and safety, or extraordinary circumstances warrant , the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things in subsection (1) without the consent of the owner or occupant.
(4) Nothing in this section authorizes the municipal corporation to remedy the contravention of an enactment or by-law.

6.2.4 **Notice of certain by-laws** [SAME]
No council shall give third reading to a by-law that would authorize the entry or use of real property without the consent of the owner or occupier of it, unless it first gives public notice of a summary of the by-law or, where the real property of a specific person is affected, actual notice to that person.

6.2.5 **Court authorized inspections and enforcement** [NEW]
(1) If a person
a) refuses to allow or interferes with the entry, inspection, enforcement or action referred to in section 6.2.3, or
b) refuses to produce anything to assist in the inspection, remedy, enforcement or action referred to in section 6.2.3,
the municipal corporation may apply to the Supreme Court of the Northwest Territories for an order under subsection (2).
(2) The court may issue an order
a) restraining a person from preventing or interfering with the entry, inspection, enforcement or action, or
b) requiring the production of anything to assist in the inspection, remedy, enforcement or action.
(3) Where in the opinion of the court there is imminent danger to public health or safety, or extraordinary circumstances warrant, the court may hear the application without notice to any person.

6.2.6 **Remedy of contraventions** [NEW]
(1) If a designated officer finds that a person is contravening this or any other enactment that the municipal corporation is authorized to enforce or a by-law, the designated officer may, by written order, require the person responsible for the contravention to remedy it if the circumstances so require.
(2) The order may
a) direct a person to stop doing something, or to change the way in which the person is doing it;
b) direct a person to take any action or measures necessary to remedy the contravention of the enactment or by-law, including the removal or demolition of a structure that has been erected or placed in contravention of a by-law, and, if necessary, to prevent a reoccurrence of the contravention;
c) state a time within which the person must comply with the directions;
d) state that if the person does not comply with the directions within a specified time, the municipal corporation will take the action or measure at the expense of the person.

(3) The order must be served personally or, where personal service cannot be effected because the address of the person is not known, the notice may be published twice in a newspaper having general circulation in the municipality or the Northwest Territories.

6.2.7 **Order to remedy dangers and unsightly property** [NEW]

(1) If, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, or because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order,

a) require the owner of the structure to
   i) eliminate the danger to public safety in the manner specified, or
   ii) remove or demolish the structure and level the site;
b) require the owner of the land that contains the excavation or hole to
   i) eliminate the danger to public safety in the manner specified, or
   ii) fill in the excavation or hole and level the site;
c) require the owner of the property that is in unsightly condition to
   i) improve the appearance of the property in the manner specified, or
   ii) if the property is a structure, remove or demolish the structure and level the site.

(2) An order made under subsection (1) may

a) state a time within which the person must comply with the directions; and
b) state that if the person does not comply with the directions within a specified time, the community will take the action or measure at the expense of the person.

(3) The order must be served personally or, where personal service cannot be effected because the address of the person is not known, the notice may be published twice in a newspaper having general circulation in the municipality or the Northwest Territories.

6.2.8 **Request for hearing by council** [NEW]

(1) A person who receives a written order under section 6.2.6 or 6.2.7 may request council to review the order by written notice within 14 days of the date the order is received, or such longer period as a by-law specifies.

(2) After reviewing the order, the council may confirm, vary, substitute or cancel the order.

6.2.9 **Appeal from decision by council** [NEW]

(1) A person affected by the decision of a council under section 6.2.8 may appeal to the Supreme Court of the Northwest Territories within 30 days of the date the decision is served on the person if

a) the procedure required to be followed by this Act is not followed, or
b) the decision is patently unreasonable.

(2) The application for the appeal must state the reasons for the appeal.

(3) The court may

a) confirm the decision, or
b) declare the decision invalid and send the matter back to the council with directions.

6.2.10 **Municipal corporation remedying contraventions** [NEW]

(1) A municipal corporation may take whatever action or measures are necessary to remedy a contravention of this Act, an enactment that the municipal corporation is authorized to enforce or a by-law or to prevent a reoccurrence of the contravention if

a) the municipal corporation has given a written order under section 6.2.6,

b) the order contains a statement referred to in 6.2.6(2)(d),
c) the person to whom the order is directed has not complied with the order within the time specified in the order, and
d) the appeal periods respecting the order have passed or, if an appeal has been made, the appeal has been decided and it allows the municipality to take the action or measures.

(2) If the order directed that premises be put and maintained in a sanitary condition, the municipal corporation may, under this section, close the premises and use reasonable force to remove occupants.

(3) The expenses and costs of an action or measure taken by a municipal corporation under this section are a debt owing to the municipal corporation by the person who contravened the enactment or by-law, and may be recovered from the person in default by civil action for debt, or by charging it against real property of which the person is the assessed owner in the same manner as arrears of property taxes under the *Property Assessment and Taxation Act*.

6.2.11 **Remedying dangers and unsightly property** [NEW]

(1) A municipal corporation may take whatever actions or measures are necessary to eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property if

a) the municipal corporation has given a written order under section 6.2.7,
b) the order contains a statement referred to in 6.2.7(2)(b),
c) the person to whom the order is directed has not complied with the order within the time specified in the order, and
d) the appeal periods respecting the order have passed or, if an appeal has been made, the appeal has been decided and it allows the municipal corporation to take the action or measures.

(2) If a structure is being removed or demolished by a municipal corporation under this section, the municipal corporation may use reasonable force to remove occupants.

(3) The expenses and costs of an action or measure taken by a municipal corporation under this section are an amount owing the municipal corporation by the person who was required to do something by the order under section 6.2.7, and may be recovered from the person in default by civil action for debt, or by charging it against real property of which the person is the assessed owner in the same manner as arrears of property taxes under the *Property Assessment and Taxation Act*.

(4) If the municipal corporation sells all or a part of a structure that has been removed under this section, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the person entitled to them.

6.2.13 **Exception for imminent danger** [NEW]

(1) Despite sections 6.2.11 and 6.2.12, where the council or designated officer is of the opinion that there is imminent danger to public health and safety, the municipal corporation may take whatever actions or measures are necessary to eliminate the danger.

(2) This section applies whether or not the danger involves a contravention of this Act, an enactment that the municipal corporation is authorized to enforce or a by-law.

(3) A person who receives an oral or written order under this section requiring the person to provide labour, services, equipment or materials must comply with the order.

6.2.14 **Use of ticket procedure** [SAME]

(1) In addition to any other enforcement powers under this or any other enactment, a municipal corporation may use the *Summary Conviction Procedures Act* to enforce its by-laws.
(2) Every senior administrative officer shall ensure that complete and accurate records are kept in respect of

a) all tickets issued under the *Summary Conviction Procedures Act* for offences under the by-laws;
b) all payments of fines in respect of those tickets; and
c) the disposition of those tickets.

(3) A council may, by by-law, provide for the destruction of records kept under subsection (2) when they are non longer useful or required by law.

6.2.15 **Injunction** [AMENDED]
(1) In addition to any other remedy available to it, a municipal corporation may enforce a by-law by applying to the Supreme Court for an injunction in accordance with the Rules of the Supreme Court.
(2) The Court may grant or refuse the injunction or other order or may make any other order that in its opinion the justice of the case require.

6.2.16 **Ownership of fines collected** [SAME]
Subject to any other enactment, a fine or penalty collected in respect of an offence under a by-law belongs to the municipal corporation.

3. OFFENCES

6.3.1 **Contravention of Act or regulations** [SAME]
Every person who contravenes this Act or the regulations is guilty of an offence.

6.3.2 **Penalties** [SAME for *Cities, Towns and Villages*; AMENDED for *Hamlets* and *Charter Communities*]
Every person who is guilty of an offence under this Act, the regulations or a by-law for which no specific punishment is provided by this Act or by a by-law is liable on summary conviction

a) to a fine not exceeding $2000 ~~$1000~~ for an individual, and $10,000 ~~$5000~~ for a corporation; or
b) to imprisonment for a term not exceeding six months in default of payment of a fine.

6.3.3 **Obstruction or interference** [AMENDED]
Every person who wilfully obstructs or interferes with

a) a by-law officer
b) another officer of the municipal corporation,
c) a municipal inspector,
d) a municipal supervisor, or
e) a municipal administrator,

in the performance of his or her duties under this Act or a by-law is guilty of an offence.

6.3.4 **Order respecting other matters** [SAME]
In addition to any fine that may be levied, a court, subject to its jurisdiction, may order a person convicted of an offence under a by-law

a) to pay any fee or charge that may otherwise be payable by the person to the municipal corporation in respect of any licence or permit that should have been obtained by the person; and
b) to do or refrain from doing any activity that the court may specify.

4. MUNICIPAL INSPECTORS

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one amended section which is set out below. For details of the other sections under this heading, please refer to the existing Acts.

6.4.1 **Municipal inspections** [AMENDED]
~~Every municipal corporation, at least once a year and at any other times that the Minister may require must have its~~ Upon request by the Minister or by the council, a municipal inspector shall review or examine
a) the records, books and accounts,
b) management and administration,
c) operations, and
d) financial affairs
~~examined by a municipal inspector~~ of the municipal corporation.

5. MUNICIPAL SUPERVISORS

6.5.1 **Order of supervision** [NEW]
Where the Minister believes that
a) a municipal corporation is in financial or operational difficulty;
b) the council has failed to perform a duty required of it by this Act or any other Act; or
c) the Minister is of the opinion that for other reasons it is in the best interests of the municipal corporation that the affairs of the municipal corporation be supervised,
the Minister may, by order
a) place the affairs of the municipal corporation under supervision; and
b) appoint a supervisor of the affairs of the municipal corporation.

6.5.2 **Submission of program by municipal corporation** [NEW]
Where a supervisor is appointed by the Minister under 6.5.1, the municipal corporation must submit to the supervisor for approval, particulars of the following matters which constitute the program of the municipal corporation
a) its budget;
b) any other matter affecting the administration of the affairs of the municipal corporation.

6.5.3 **Directions and approval by supervisor** [NEW]
The municipal corporation and its officers and officials must comply with the directions of the supervisor, and the council of the municipal corporation must not finalize its program or pass any by-law respecting it until the program has been approved or revised and approved, by the supervisor.

6.5.4 **Minister may prescribe program** [NEW]
Where a municipal corporation fails to obtain the approval of the supervisor or fails in whole or in part to conduct its affairs in accordance with the program, the Minister may prescribe a program for the municipal corporation, which becomes effective and is binding upon the municipal corporation, its council, the senior administrative officer, and all persons interested in or affected by it.

6.5.5 **Amendment of program** [NEW]
The Minister may amend in whole or in part a program approved by the supervisor or prescribed by the Minister and the amendment is effective and binding immediately upon notice being given to the municipal corporation.

6.5.6 **Current borrowings** [NEW]
The Minister may direct that every borrowing by the municipality is subject to the Minister's approval and that no money may be borrowed for purposes other than, or in amounts greater than, those approved from time to time, and the municipal corporation must comply with the direction.

6.5.7 **Ministerial directions** [NEW]
In appointing a supervisor the Minister may

a) give directions respecting approval of the program set out in section 6.5.2;
b) give directions for the deposit and disbursement of all money of, or received on account of, the municipal corporation;
c) give directions regarding the approval and execution of all by-laws, security documents and other documents; and
d) impose such terms or conditions or give such other directions as the Minister considers advisable.

6.5.8 **Application of Act** [NEW]
Subject to sections 6.5.1 to 6.5.7, the members of the council and the senior administrative officer of a municipal corporation the affairs of which are under supervision remain subject to this and any other Act.

6.5.9 **Payment of expenses** [NEW]
The Minister may require that the expenses incurred under sections 6.5.1 to 6.5.7 be paid wholly or in part by the municipal corporation under supervision and included in the operating budget of the municipal corporation.

6. MUNICIPAL ADMINISTRATORS

N.B. The Committee recommends that the provisions under this heading remain unchanged with the exception of one new provision which is set out below. For details of the other sections under this heading, please refer to the existing Acts.

6.6.1 **Payment of expenses** [NEW]
Section 6.5.9 applies with necessary modifications to the expenses of an administrator.

PART VII

DISSOLUTION

The Committee recommends that the process for dissolving municipalities remain the same as under the current Acts.

[Please refer to Part VI of the existing *Charter Communities Act*, *Cities, Towns and Villages Act*, and *Hamlets Act* for details.]

PART VIII

REGULATIONS

This Part would include the Minister's powers to make regulations and orders varying the time for doing things.

Appendix

B

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INTERPRETATION

To help people interpret the Act, the Committee recommends a new section to explain the purposes of settlement governments. This part would also include, as needed, definitions of words used in the Act.

0.1 **Purposes of settlement governments** [NEW]
The purposes of settlement governments are

a) to provide good government
b) to provide services or other things that, in the opinion of council, are necessary or desirable for all or a part of the settlement, and
c) to develop safe and viable settlements.

0.2 **Definitions** [AMENDED*]
* Only those definitions which are helpful for understanding this report have been included in this section. There are a number of other definitions in the existing legislation, and it is expected that a Bill would include some of these definitions as well as some new definitions not listed here.

In this Act,
"First Nation government or organization" means a band council, Metis local, tribal council, entity established or recognized under a land claims agreement or self government agreement within the Northwest Territories, or any other entity in the Northwest Territories which exists primarily to govern or represent Aboriginal people

0.3 **Aboriginal rights** [SAME]
Nothing in this Act shall be interpreted so as to affect aboriginal rights.

0.4 **Public notice** [SAME]
When public notice is required under this Act, the notice must be given to the general public in one or more of the following ways:

a) by inserting the notice at least once in a newspaper circulating in the settlement;
b) by mailing or delivering a copy of the notice to each voter in the settlement;
c) by causing announcements to be made on a radio or television station received in the settlement on at least three separate days;
d) by posting a notice in at least five widely separated and conspicuous places in the settlement.

PART I

SETTLEMENTS

The Committee recommends that the processes for changing the names, status and boundaries of settlements stay the same as under the existing Acts. The Committee also recommends increasing the number of people needed to initiate the establishment of a settlement from one to twenty-five people.

The Committee also recommends the development of a policy or guidelines that would set out the factors the Minister must consider when deciding whether to establish a new settlement. This would ensure that the same criteria are used to evaluate all requests for new settlements.

N.B. The Committee recommends that the provisions under this Part remain the same as under the existing Act except for one amended section, which is set out below. For details on the other sections under this heading, please refer to the existing Act.

1.1 **Establishment** [AMENDED]
The Minister may, on the Minister's own initiative or at the request of ~~any person who has attained the age of 19 years,~~ at least twenty-five residents who, on the date of the request, would be eligible to vote under section 17 of the *Local Authorities Elections Act* in a settlement, by order declare an unincorporated community to be a settlement and fix its names and boundaries.

PART II

SETTLEMENT CORPORATIONS

The Committee recommends providing councils with explicit economic development powers.

Substantial changes to the provisions on community agreements are also recommended to allow agreements with the Government of Canada, other communities, and First Nations governments and organizations, and to require that future community agreements include dispute resolution processes.

1. INCORPORATION

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

2. CONTRACTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

3. COMMUNITY AGREEMENTS

2.3.2 **Community agreements** [AMENDED]

(1) A council may, by resolution, authorize the settlement corporation to enter into a community agreement with the Government of the Northwest Territories or the Government of Canada delegating to the settlement corporation the authority and responsibility for the administration and delivery of any service or program specified in the agreement.

(2) A council may, by resolution, authorize the settlement corporation to enter into a community agreement with one or more other municipal or settlement corporations or First Nations governments or organizations within the Northwest Territories respecting the administration and delivery of a service or program.

(3) A community agreement may provide a settlement corporation with the authority to administer and deliver a service or program within or outside the boundaries of the settlement, or for other communities in a region.

(4) A settlement corporation has, subject to the terms and conditions of a community agreement, the power to administer and deliver any service or program delegated to the municipal corporation by the community agreement and, for greater certainty, the administration and delivery of such a service or program in accordance with the community agreement is deemed, for the purposes of this Act, to be a settlement purpose.

(5) Where provided for in the community agreement, a council may, by resolution,

a) establish a board or commission to administer all or part of a program or service transferred to the settlement corporation under a community agreement; and
b) define the powers and duties of the board or commission established under paragraph (a).

(5) Every community agreement must include a provision describing a process for the settling of disputes.
(6) A community agreement is of no effect until it receives the approval of the Minister.
(7) An agreement similar in nature and purpose to a community agreement that was entered into before the coming into force of this section is deemed to be a community agreement entered into under this section.

2.3.2 **Joint boards and commissions** [NEW]
A community agreement may provide for the establishment of a board or commission to be jointly controlled by two or more parties to the agreement, and any matters with respect to the board or commission that the parties consider advisable.

4. ECONOMIC DEVELOPMENT

2.4.1 **Economic development powers** [NEW]
(1) In this section, "economic development" means the establishment, expansion or continuation of a business or industry.
(2) Subject to limitations on its powers in this or any other enactment, a council may encourage economic development in any manner it considers appropriate and, for that purpose, may enter into an agreement with a person, with a local or regional aboriginal organization, with an agency of the Government of the Northwest Territories or the Government of Canada, or with another municipal or settlement government, including a local government outside of the Northwest Territories.

5. PROPERTY

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

6. LIMITATIONS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

PART III

ADMINISTRATION

The Committee recommends a number of changes to make this Part easier to use and understand and to make the rules more flexible where appropriate. The changes would:

- ***set out the process to be followed when it is necessary to force a disqualified council member to step down;***
- ***give councils explicit powers to appoint youth members;***
- ***allow council meetings to take place through speakerphones, videoconferencing or other electronic means; and***
- ***give a clear description of the duties of chairpersons, councils and councillors, and give councils explicit powers to adopt codes of ethics.***

1. COUNCILS

3.1.1 **Role of council** [SAME]
Except as otherwise provided by this Act, the powers and duties of a settlement corporation shall be exercised and performed by the council.

3.1.2 **Term of office** [SAME]
(1) The term of office of a council member shall not exceed three years.
(2) The terms of office of council members may be staggered.

3.1.3 **Election of council members** [SAME]
(1) Subject to subsection (2), the *Local Authorities Elections Act* applies to a settlement council.
(2) The Minister may appoint up to 2/3 of the council members.

3.1.4 **Resolutions** [SAME]
(1) Every council shall exercise its powers and perform its duties by resolution.
(2) No council has the power to make by-laws.

3.1.5 **Variation of number of council members** [SAME]
(1) The Minister may, by order, vary the number of council members who comprise a council.
(2) An order made under subsection (3)
   a) shall not affect the term of office of any council member in office at the time the order is made; and
   b) shall apply to the next general election in respect of elected council members; and
   c) may apply before the next general election in respect of non-elected council members.

3.1.6 **Youth members** [NEW]

(1) A council may appoint a person with the title "youth member", to sit with the council and to participate in its deliberations, for a term and on conditions that the council may decide.

(2) A youth member must be less than 18 years of age.

(3) A youth member is not counted for the purpose of determining a quorum or deciding a vote of the council.

3.1.7 **Oath of office** [SAME]

Every council member shall, before taking office, take an oath or an affirmation as follows:

> I, ... do solemnly and sincerely promise and (swear *or* affirm) that I will duly, faithfully and to the best of my skill and knowledge, execute the powers and trust reposed in me as a (*name of office*).

3.1.8 **Ineligible council members** [AMENDED]

(1) A council member who, after his or her election or appointment, would not be eligible to be a candidate shall immediately vacate his or her seat and cease to be a chairperson or councillor, as the case may be.

(2) If a council member to whom subsection (1) applies does not resign immediately,

a) the council may apply to the Supreme Court of the Northwest Territories for

i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a council member, or

ii) an order declaring the person to be disqualified from council;

or

b) an elector who

i) files an affadavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a council member, and

ii) pays into court the sum of $500 as security for costs,

may apply to the Supreme Court of the Northwest Territories for an order declaring the person to be disqualified from council.

(3) After hearing an application under this section, the judge may

a) declare the person to be disqualified and a position on council to be vacant;

b) declare the person able to remain a council member, or

c) dismiss the application.

(4) A judge who hears an application under this section and is of the opinion that a disqualification arose inadvertently or by reason of a genuine error in judgment may dismiss the application.

3.1.9 **Corporate seal** [SAME]

Every settlement corporation shall have a corporate seal.

2. MEETINGS OF COUNCIL

N.B. The Committee recommends that the provisions under this heading remain the same as under the existing Act except for one new section, which is set out below. For details on the other sections under this heading, please refer to the existing Act.

3.2.1 **Meeting by electronic means** [NEW]

(1) Council may conduct a meeting by means of an electronic or other communication facility if the facility enables the members to hear and speak to each other, and the public to hear the members.

(2) Members participating in a meeting in the manner referred to in (1) are deemed to be present at the meeting.

3 COUNCIL MEMBERS

3.3.1 **Duties of council** [NEW]

A council is responsible for

a) developing and evaluating the plans, policies and programs of the settlement;
b) making sure that the powers, duties and functions of the settlement corporation are appropriately carried out;
c) carrying out the powers, duties and functions expressly given to it under this or any enactment.

3.3.2 **Duties of councillors** [NEW]

Councillors have the following duties:

a) to consider the welfare and interests of the settlement as a whole and to bring to council's attention anything that would promote the welfare or interests of the settlement;
b) to participate generally in developing and evaluating the policies and programs of the settlement;
c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;
d) to obtain information about the operation or administration of the settlement from the senior administrative officer or a person designated by the senior administrative officer;
e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public; and
f) to perform any other duty or function imposed on councillors by this or any other enactment or by the council.

3.3.3 **Code of ethics** [NEW]

A council may adopt a code of ethics for council members.

3.3.4 **Entitlement to vote** [SAME]

(1) Subject to subsection (2), every council member has one vote at a meeting of council or a committee of council.

(2) The right of the chairperson or other presiding member to vote is subject to procedural rules made by the council.

3.3.5 **Deemed resignation for non-attendance** [SAME]
A council may, by resolution, provide that where any council member is absent from regular meetings of council, without the consent of the council, more than a certain number of times specified in the resolution, the council member shall be deemed to have resigned.

3.3.6 **Indemnities and allowances to council members** [SAME]
Subject to this Act, a council may, by resolution, provide for the payment of

a) an annual indemnity
   i) to the chairperson, and
   ii) to the councillors;
b) an indemnity to council members for attending meetings of council or for performing any other duties; and
c) a reasonable allowance for expenses necessarily incurred in the performance of a council member's duties.

4. RECORDS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

5. CHAIRPERSON

3.5.1 **Duties of chairperson** [NEW]
A chairperson, in addition to performing the duties of a councillor, must

a) preside when in attendance at a council meeting except where the procedures resolution, or this or any other Act provides otherwise;
b) provide leadership and direction to council; and
c) perform any other duty imposed on a chairperson by this or any other enactment, or a by-law.

3.5.2 **Deputy chairperson** [SAME]
(1) A council, on the recommendation of the chairperson, may appoint a councillor to be the deputy chairperson.
(2) The deputy chairperson shall

a) perform the duties and may exercise the powers of the chairperson when the chairperson is absent or unable to act; and
b) perform other duties and may exercise other powers, subject to the authority of the chairperson, that the council may determine.

3.5.3 **Acting chairperson** [SAME]
(1) Where both the chairperson and the deputy chairperson are absent or unable to act, the council may appoint a councillor to be the acting chairperson.
(2) The acting chairperson has the same powers and duties as the deputy chairperson.

6. OFFICERS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

7. EMPLOYEES

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Acts.

PART IV

FINANCIAL AFFAIRS

The Committee recommends:

- ***new requirements for certain financial documents to be available for members of the public to look at; and***
- ***adopting the Canadian Institute of Chartered Accountants guidelines for financial statements.***

1. BUDGETS

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one new section which is set out below. For details of the other sections under this heading, please refer to the existing Act.

4.1.1 **Public access to budgets** [NEW]
A copy of the current year's budget must be available for inspection by members of the public at the offices of the settlement corporation during regular business hours.

2. EXPENDITURES AND DISBURSEMENTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

3. FINANCIAL STATEMENTS

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one new section and one amended section, both of which are set out below. For details of the other sections under this heading, please refer to the existing Act.

4.3.1 **Public access to financial statements** [NEW]
A copy of the settlement corporation's, financial statements and auditor's reports must be available for inspection by members of the public at the offices of the settlement corporation during regular business hours.

4.3.2 **Requirements of financial statements** [AMENDED]
The financial statements must be prepared

a) in accordance with an appropriate disclosed basis of accounting;
b) on a basis consistent with that of the preceding fiscal year or another disclosed basis;
c) in accordance with the generally accepted accounting principles recommended from time to time by the Canadian Institute of Chartered Accountants; and
d) in accordance with guidelines issued by the Minister.

4. WRITE OFF OR FORGIVENESS OF DEBTS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

5. WRITE OFF OF ASSETS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

6. REVENUE

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details, please refer to the existing Act.

PART V

LIABILITY AND OTHER LEGAL MATTERS

The Committee recommends a new provision to limit settlement liability for exercising discretion. The Committee also recommends extending the current personal civil liability protections for council members to settlement officers, volunteer workers and committee members.

To increase the ability of the Minister to intervene where a settlement is in difficulty without resorting to the appointment of an administrator, the Committee recommends:

- ***that the scope of settlement inspections be expanded to include operations, and that inspections only take place at the request of the council or the Minister; and***
- ***that new provisions for the appointment of "settlement supervisors" without dissolving the council be enacted.***

Finally, the Committee recommends new provisions allowing the Minister to recover all or part of the cost of a supervisor or administrator from the settlement corporation. This would be appropriate in many cases, for example, where the settlement corporation is no longer paying the salary of a senior administrative officer.

1. LIABILITY

5.1.1 **Definitions** [NEW]
In the following sections,

a) "settlement officer" means the senior administrative officer and designated officers, and employees of the settlement corporation,
b) "volunteer worker" means a volunteer member of a fire or ambulance service or emergency measures organization established by a settlement, or any other volunteer performing duties under the direction of a settlement corporation,
c) "committee member" means a member of a committee established by the settlement corporation under this Act, and

5.1.2 **Limit on liability of council and board members, officers and volunteers** [AMENDED]
(1) Subject to the *Conflict of Interest Act*, no council member is liable to any civil action, prosecution, arrest, imprisonment or damages by reason of

a) anything said by the council member in a meeting of council or a committee of council, or

b) anything brought before council or a committee of council by the council member,

unless it is said or brought with malicious intent.

(2) Subject to the *Conflict of Interest Act*, no council member, council committee member, settlement officer, or volunteer worker, is liable for loss or damage by reason of anything said or done or omitted to be done in the performance or intended performance of his or her functions, duties or powers under this Act.

(3) Subsection (2) is not a defence where

a) the cause of action is defamation; or

b) the council member, council committee member, settlement officer or volunteer worker was dishonest, grossly negligent or guilty of wilful misconduct.

(4) Subsection (2) does not affect the legal liability of the settlement corporation.

5.1.3 **Exercise of discretion** [NEW]

A settlement corporation that has the discretion to do something is not liable for deciding not to do that thing in good faith or for not doing that thing.

2. OFFENCE AND PUNISHMENT

5.2.1 **Obstruction or interference** [AMENDED]

Every person who wilfully obstructs or interferes with a municipal inspector, a settlement supervisor or a settlement administrator in the performance of his or her duties under this Act or a resolution is guilty of an offence and liable on summary conviction

a) To a fine not exceeding

i) $2,000 ~~$1000~~for an individual

ii) $10,000 ~~$5000~~ for a corporation; or

b) to imprisonment for a term not exceeding six months in default of payment of a fine.

3. MUNICIPAL INSPECTORS

N.B. The Committee recommends that the provisions under this heading remain unchanged except for one amended section which is set out below. For details of the other sections under this heading, please refer to the existing Acts.

5.3.1 **Settlement inspections** [AMENDED]

~~Every settlement corporation, at least once a year and at any other times that the Minister may require must have its~~ Upon request by the Minister or by the council, a municipal inspector shall review or examine

a) the records, books and accounts,

b) management and administration,

c) operations, and

d) financial affairs

~~by a municipal inspector~~ of the settlement corporation.

4. SETTLEMENT SUPERVISORS

5.4.1 **Order of supervision** [NEW]
Where the Minister believes that

a) a settlement corporation is in financial or operational difficulty;
b) the council has failed to perform a duty required of it by this Act or any other Act; or
c) the Minister is of the opinion that for other reasons it is in the best interests of the settlement corporation that the affairs of the settlement corporation be supervised,

the Minister may, by order

a) place the affairs of the settlement corporation under supervision; and
b) appoint a supervisor of the affairs of the settlement corporation.

5.4.2 **Submission of program by settlement corporation** [NEW]
Where a supervisor is appointed by the Minister under 5.5.1, the settlement corporation must submit to the supervisor for approval, particulars of the following matters which constitute the program of the settlement corporation

a) its budget;
b) any other matter affecting the administration of the affairs of the settlement corporation.

5.4.3 **Directions and approval by supervisor** [NEW]
The settlement corporation and its officers and officials must comply with the directions of the supervisor, and the council of the settlement corporation must not finalize its program or pass any resolution respecting it until the program has been approved or revised and approved, by the supervisor.

5.4.4 **Minister may prescribe program** [NEW]
Where a settlement corporation fails to obtain the approval of the supervisor or fails in whole or in part to conduct its affairs in accordance with the program, the Minister may prescribe a program for the settlement corporation, which becomes effective and is binding upon the settlement corporation, its council, the senior administrative officer, and all persons interested in or affected by it.

5.4.5 **Amendment of program** [NEW]
The Minister may amend in whole or in part a program approved by the supervisor or prescribed by the Minister and the amendment is effective and binding immediately upon notice being given to the settlement corporation.

5.4.6 **Ministerial directions** [NEW]
In appointing a supervisor the Minister may

a) give directions respecting approval of the program set out in section 5.4.2;
b) give directions for the deposit and disbursement of all money of, or received on account of, the settlement corporation;
c) give directions regarding the approval and execution of all documents; and
d) impose such terms or conditions or give such other directions as the Minister considers advisable.

5.4.7 **Application of Act** [NEW]

Subject to sections 5.4.1 to 5.4.6, the members of the council and the senior administrative officer of a settlement corporation the affairs of which are under supervision remain subject to this and any other Act.

5.4.8 **Payment of expenses** [NEW]
The Minister may require that the expenses incurred under sections 5.4.1 to 5.4.6 be paid wholly or in part by the settlement corporation under supervision and included in the operating budget of the settlement corporation.

5. SETTLEMENT ADMINISTRATORS

N.B. The Committee recommends that the provisions under this heading remain unchanged. For details of the other sections under this heading, please refer to the existing Acts.

5.5.1 **Payment of expenses** [NEW]
Section 5.4.8 applies with necessary modifications to the expenses of an administrator.

PART VI

DISSOLUTION

The Committee recommends that the process for dissolving settlements remain the same as under the current Acts.

PART VII

REGULATIONS

This Part would include the Minister's powers to make regulations and orders varying the time for doing things.

Appendix

C

PROPOSED AMENDMENTS TO THE *LOCAL AUTHORITIES ELECTIONS ACT*

Campaign Finances

The following proposals would allow councils to make by-laws requiring the reporting of campaign contributions and expenses.

Current provisions:

There are currently no provisions in the Act requiring candidates in municipal/settlement elections to report campaign contributions and expenses.

Proposals for change:

Requirements for the reporting of both campaign contributions and expenses are already in place for territorial and federal elections and, in some jurisdictions, for municipal elections.

In most NWT communities, accountability for campaign spending is not a concern as candidates receive few financial contributions and do not spend very much. For this reason, it is proposed that rather than placing reporting requirements in the *Local Authorities Elections Act* which would apply to everyone, councils be given the discretion of whether or not to pass by-laws requiring reports. This would ensure that rules will be put in place only in those communities where they are needed.

Wording similar to the Alberta *Local Authorities Election Act* could be used:

> *A council may, by by-law (by resolution in the case of settlements) passed at least 270 days before a general election, require that candidates prepare and disclose to the public audited statements of all their campaign contributions and campaign expenses.*
>
> *The by-law (resolution)*
> *a) shall define "campaign contributions" and "campaign expenses", and*
> *b) may prescribe forms for the purposes of the by-law (resolution).*
>
> *A person who contravenes a by-law (resolution) passed under this section is guilty of an offence and is liable for a penalty of not more than $1000, and any penalty paid under this section belongs to the community government.*

As well, it is proposed that the Act would allow for by-laws (resolutions) to provide that contributions and/or expenses below a certain amount do not need to be reported.

Summary of recommendations:

It is recommended that the *Local Authorities Elections Act* be amended to:

- allow councils to pass by-laws (resolutions in the case of settlement corporations) requiring that candidates in community elections report their campaign expenses and contributions.

PROPOSED AMENDMENTS TO THE *PROPERTY ASSESSMENT AND TAXATION ACT*

Boards of Revision and Assessment Appeals Tribunal

The following proposals would require boards of revision and the Assessment Appeals Tribunal to render their decisions within a specified time limit, would give the Boards and Tribunal the authority to require certain information at the time complaints are filed, would require that a complaint have been heard by the Board of Revision before it can be heard by the Tribunal, would allow for the appointment of a secretary to the Assessment Appeals Tribunal who is not a member of the public service, and would permit the Director of Assessment to amend the assessment roll with the agreement of the assessed owner.

Current provisions:

Time limits
The Act does not currently provide time limits for the hearing of complaints by the Boards of Revision or the Assessment Appeals Tribunal.

Director of Assessment's powers to revise the roll
The Director of Assessment may correct clerical, typographical or administrative errors, omissions or misdescriptions on the assessment roll, first revision, unless a complaint has already been made to the Board of Revision on the matter.

Required Information
Complaints must be made in writing, and must state the name and address of the complainant, the location of the assessed property in respect of which the complaint is made, the complaint and reasons for it, and the remedy or direction sought.

Appeals
Anyone affected by a decision of the Board of Revision may appeal the decision or the refusal or neglect of a board to make a decision, to the Tribunal.

Secretary to the Assessment Tribunal
The Minister must appoint one or more members of the public service to be secretary of the Tribunal.

Proposals for change:

Time Limits
The lack of time limits in the current legislation has allowed backlogs to develop in the hearing of complaints and appeals. Some complainants have had to wait up to two years to receive final judgements. This is an inconvenience both to taxing authorities and to assessed owners. For example, some municipal taxing authorities have had to make retroactive repayments of taxes, which in some cases have required significant adjustments to their budgets.

It is proposed that Boards would be given a deadline of 120 days after the sending of the assessment notices to render their decisions. The deadline for the Tribunal would be October 1st of each calendar year. The Minister would not have the power to vary these times except where the Minister has varied the date for the assessment roll.

Director of Assessment's power to revise the assessment roll
Parties often come to an agreement prior to a Board or Tribunal hearing, but a Board or Tribunal decision is required if changes are going to be made to the roll. It is proposed that the Director be given the power to make changes to the roll that are agreed to by all parties. This would save time for the Boards and Tribunal as they would receive fewer complaints.

Required information
The Boards and Tribunal often lack information concerning complaints, which results in hearings being delayed until further information is provided. Frivolous complaints and uncontested complaints which could have been settled without a hearing are sometimes heard because not enough information was provided in the complaint.

It is proposed that Boards and the Tribunal would be permitted to establish policies on the information that is required to file a complaint in addition to what is required under legislation. Copies of the appropriate Board policies would have to be included with assessment notices, and a copy of any Tribunal policy would have to be included with Board decisions.

Appeals
Boards of Revision have raised concerns that their decisions are not taken seriously. People often file complaints, but do not bother to make representations or attend hearings because they intend to appeal to the Tribunal anyway.

It is proposed that no complainant would be permitted to appeal to the Tribunal if they failed to appear at a Board hearing, or to comply with any request of the board to provide information, explanation, or records, books or documents without reasonable justification.

Secretary to the Tribunal

Currently the secretary to the Tribunal is appointed by the Minister and must be a member of the public service. There are not always qualified members of the public service available to take on this role in addition to their other responsibilities. Further, it may be desirable to have a secretary who is at arm's length from the GNWT. It is proposed that the requirement that the secretary be a member of the public service be removed, and that the Tribunal be allowed to appoint its own secretary.

Summary of recommendations:

It is proposed that the *Property Assessment and Taxation Act* be amended to:

- set time limits for decisions on assessment complaints and appeals;
- permit the Director of Assessment to make changes to the assessment roll where all parties are in agreement;
- allow Boards and the Tribunal to set policies on the information that must be included in a complaint before the complaint will be accepted;
- provide that people who, without a reasonable justification, do not appear at Board hearings or provide information, documents or explanations requested by the Board, may not appeal to the Tribunal; and
- allow for the Tribunal to appoint its own secretary and remove the requirement that the secretary be a member of the public service.